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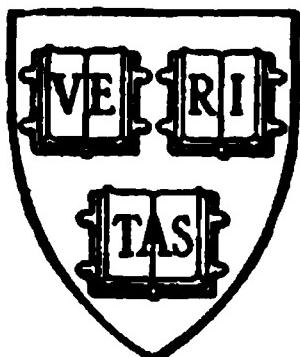
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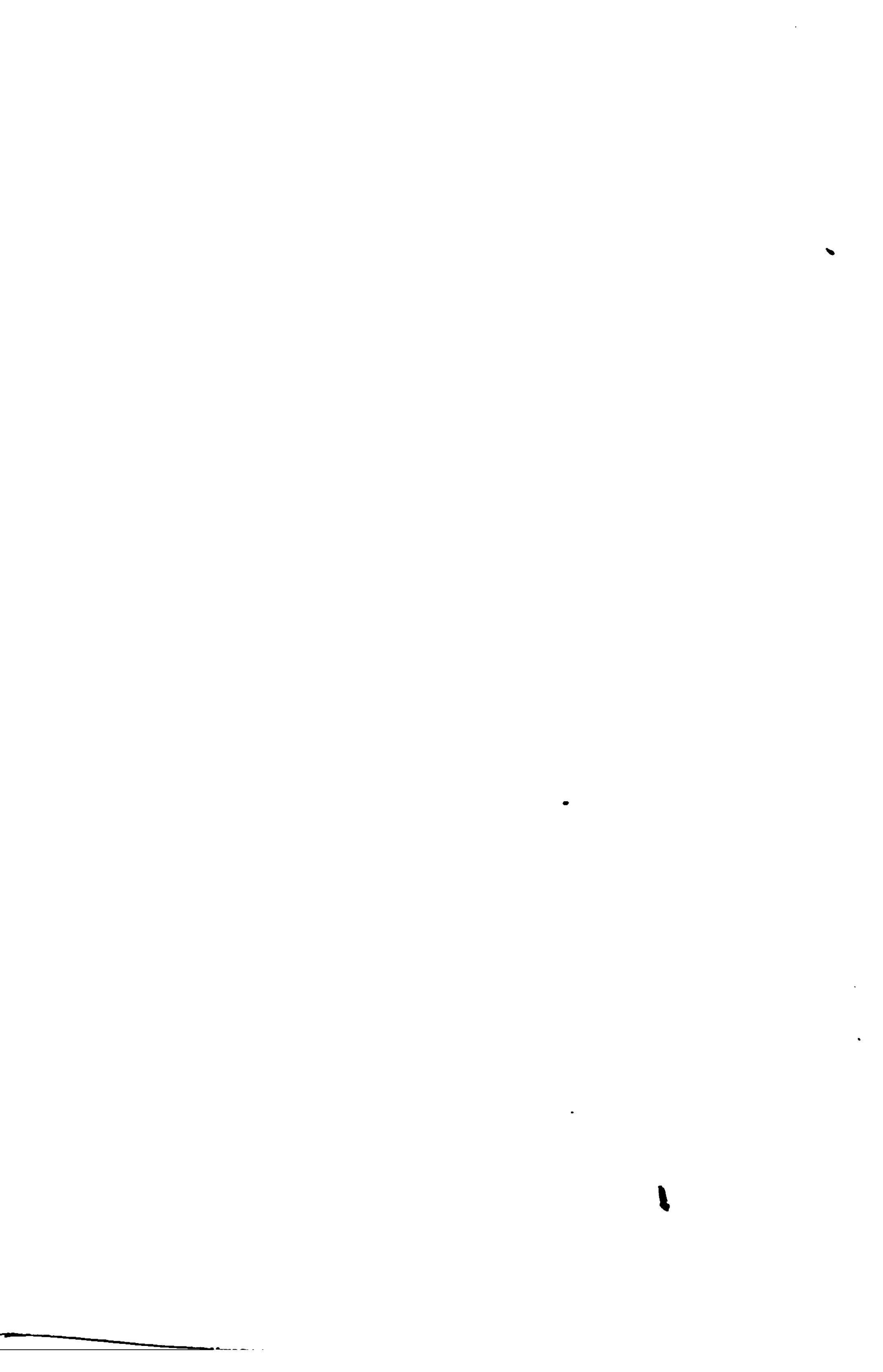
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HISTORY
OF
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BY
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VOLUME III

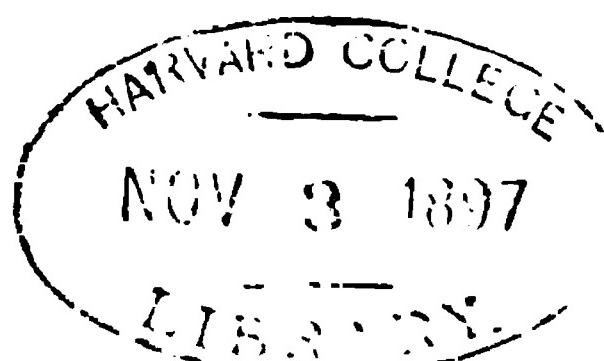
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History of California.

VOLUME III.

BOOK VIII.

EARLY MINING TIMES.

CHAPTER I.

PIONEER MINES, MINERS AND MINING APPLIANCES.

THE population of California, at the time of the admission of the state into the Union, exclusive of Indians, was about one hundred and fifty thousand persons. This was the number as near as can be ascertained; for there is nothing very certain or definite on the subject. John Neely Johnson, the United States census agent for California, in April, 1851, reported that the white population in the autumn of 1850 aggregated over one hundred and seventeen thousand persons; but, besides omitting several important counties and admitting the imperfections of his report, he expressly stated that the enumeration was probably from thirty-three to fifty per cent too low. One of the difficulties he encountered in making up his statistics was the want of proper assistants; but the principal one was the migratory character of the people, a large proportion of them being constantly changing their places of abode and many of them residing in remote, unfrequented and almost inaccessible localities.¹

¹Journals of California Legislature, 1851, 741-743.

On the supposition of the correctness of Johnson's estimate, it seems likely that the usually accepted number of the population at the end of 1849, which is generally stated at one hundred thousand, is too small and should be increased at least one-third. The arrivals at the port of San Francisco during 1850 were a little over thirty-six thousand; and there were probably nearly as many more persons who came overland; but by that time the return tide had commenced; and every steamer carried away almost as many passengers as it brought.¹ Whatever the correct number may have been, it could not have much exceeded one hundred and fifty thousand, though a joint select committee of both houses of the Legislature, within a week or two after Johnson's statement was received, presented a report to the effect that the population at that time amounted to over three hundred thousand. This committee, however, was one of apportionment and composed of politicians.²

But, notwithstanding the unreliability as to numbers of the census returns for 1850, they show with sufficient certainty, that much the greater portion of the population was scattered throughout the gold-bearing regions and pretty evenly divided between what were known respectively as the Northern Mines and the Southern Mines. San Francisco had about twenty-one thousand and Sacramento about eleven thousand; there were a few thousand distributed among the coast counties from Sonoma southward, and a few thousand in the Trinity river country; but nearly, if not quite, three-fourths of the entire population were dispersed along the river beds and in the gorges and ravines of the western slope of the Sierra Nevada, and all or nearly all were more or less directly engaged in mining. As a rule they were young, healthy, vigorous, intelligent and enterprising men. A few outcasts and a few scamps and scoundrels, a few felons and a few fugitives from justice, a few rowdies and a few blacklegs, were amongst them; but the greater part, though rough in dress and not over nice in language, were sober and industrious, well fitted to preserve public order and admirably calculated to found a great state. Thrown upon their own resources in an untried

¹ California State Register and Year Book of Facts for 1859, 119-122.

² Legislative Journals, 1851, 1732-1734.

field they had to pursue a new career. Having no precedents they had to make precedents. Like Shakespeare's Harry of England, the favorite hero in whom the great master bodied forth what he regarded as grandest and most admirable in human character, they were not to be confined within the weak list of a country's fashion, but were themselves the makers of manners; and the liberty that followed their places thenceforth stopped the mouths of all find-faults. Taken in general, there certainly never was before, and it may be doubted whether there will ever be again, thrown together under such peculiar and interesting circumstances, such a body of choice and picked spirits.

No special boundary divided the Northern from the Southern Mines; but the ridge separating the Cosumnes and Mokelumne rivers was ordinarily understood to be the line of demarcation. North of that ridge lay the Northern Mines and south of it the Southern Mines. Almost immediately after the discovery at Coloma in January, 1848, and as soon as it was known beyond question or peradventure that the shining substance, which Marshall had picked up in the mill-race, was gold—genuine gold, the crowds that flocked to the spot began to spread out and seek the precious metal in other places up and down the river, along the creeks and in the gulches on both sides, and by degrees over the ridges to other rivers. In June, 1848, Thomas O. Larkin estimated the number of miners at two thousand; and they were scattered over a hundred miles of country, embracing branches of both the Sacramento and San Joaquin rivers.¹ In July of the same year Governor Mason estimated the number at four thousand; and he thought there was reason to believe, though all the region was not occupied, that the mines extended along the Sierra from the upper waters of the Feather river southward for at least four hundred miles.²

As the Coloma mill-race, where the gold was discovered, had been cut through a bank of gravel and earth deposited by the river, the natural inference was that all the gravel and earth deposited by the river in that neighborhood contained gold. On examination this was found to be the case. The next

¹ Ex. Doc. 2 Ses. 30 Con. H. R. No. I, 53-56.

² Ex. Doc. 1 Ses. 31 Con. H. R. No. XVII, 528-536.

inference was that the gold had been washed down with the earth and gravel from higher levels up the river or its branches; and on investigation all the deposits in the shape of beds and bars and banks along the river and in the ravines on each side proved to be more or less rich. Such being the case with reference to the South Fork of the American river, there seemed no good reason why the Middle Fork and the North Fork of the same river, as they flowed through substantially the same kind of a region, should not also be of similar character; and so of all the rivers and their tributaries along the western slope of the Sierra. As the miners, with a restlessness that was peculiar to them and with a rapidity that was unexampled, rushed from place to place, they found that almost the entire slope was auriferous, and that the lucky individual, who could find the localities where the mountain-born streams had in the course of years made the largest deposits, was sure of fortune. It was the search for these places and the uncertainty, when one was found, that there were not others still richer not far distant, that rendered the most of the miners, for a year or two at least after the discovery, almost constant wanderers and led them into nearly every nook and corner of the mountains, however rough, remote or otherwise difficult of access.

In the very early days of gold-digging, miners did not require any great amount of outfit or many tools; and, under the circumstances, locomotion was easy. A single suit of clothes, consisting of woolen shirt, thick pantaloons, heavy boots and slouch hat, often served for a long time without changing. Add to this the leather belt, usually carrying a revolver-pistol and always a bowie or butcher knife, and the man was in full dress. If he traveled on foot, he carried a roll of blankets for his bed, a knapsack of provisions consisting generally of pork and beans, a little flour and salt, perhaps a little coffee or tea, a dish or two for cooking, a large iron or tin pan for washing gold, a shovel and sometimes a pick. If he traveled with a horse or mule, and particularly if he had an extra pack animal, his outfit was more extensive, embracing larger and more varied supplies of provisions, more cooking utensils, more clothing and bedding and many other tools and implements. When several traveled together and had pack

animals, they ordinarily carried a tent; but in many cases they were satisfied with brush booths hastily thrown together or slept in the open air around their camp-fire. As the mining population increased and extended from point to point in every direction that offered promise of returns, the more advanced camps, as they filled up and by degrees got to be depots of supplies, became new points of departure for still further advances; and thus the area of working rapidly enlarged, particularly towards the north and south, in both which directions grounds much richer than those about Coloma were found in abundance. At the same time, as it was seen that all or nearly all the gold that was found had been washed down from higher levels, it was supposed that somewhere near the head-waters of the rivers or summits of the mountains there were what might be called fountain-heads of the precious metal or at least very large deposits, where wealth might be gathered up by the shovelful; and, as will be seen further on, various stories of discoveries of such places were told and various expeditions in search of them made. But all attempts of this character proved vain. There were no such fountain-heads or large deposits. On the contrary, the gold was scattered irregularly in small quantities over large tracts of country; and it required very hard labor to get at and gather it.

The most primitive method of mining in California was with the pan. This pan was a dish, usually of sheet iron, with sloping sides five or six inches deep, and from twelve to eighteen inches in diameter. Being filled with the auriferous earth, it was held in the hands under water and agitated with a peculiar motion, calculated to wash the lighter earth over the edges while the heavier particles, including the gold, sank to the bottom. If the earth contained nuggets, they were picked out as the washing proceeded; if only very fine grains, they were collected as the final result of the washing in the shape of what was known as gold-dust. In exploring for new mines or hunting for new deposits, which was ordinarily called "prospecting," the pan was almost invariably used to test the character and richness of the earth examined; and such earth was said "not to show the color" or to be "dirt, worth so much a pan" according to the outcome of the examination. An experienced hand with the pan could save

almost all the gold and tell with much accuracy how much a body of earth would yield. In some cases, in certain very choice localities, and particularly in the very early days, even the pan was dispensed with and the gold scooped up or picked out of crevices with knives or spoons. These crevices were usually recesses or catching places among the rocks in the bed of a stream or ravine, over which the winter torrents, coming down from the higher regions and carrying everything before them, had rushed for many years and dropped their tribute of heavy metal as they frothed and foamed on their way.¹

E. Gould Buffum gives the following animated description of working a crevice on Weber creek in the early part of December, 1848: "I shall never forget the delight with which I first struck and worked out a crevice. It was the second day after our installation in our little log hut—the first having been employed in what is called 'prospecting' or searching for the most favorable place at which to commence operations. I had slung pick, shovel and bar upon my shoulder and trudged merrily away to a ravine about a mile from our house. Pick, shovel and bar did their duty, and I soon had a large rock in view. Getting down into the excavation I had made and seating myself upon the rock, I commenced a careful search for a crevice and at last found one extending longitudinally along the rock. It appeared to be filled with a hard, bluish clay and gravel, which I took out with my knife; and there at the bottom, strewn along the whole length of the rock, was bright, yellow gold in little pieces about the size and shape of a grain of barley. Eureka! oh, how my heart beat! I sat still and looked at it some minutes before I touched it, greedily drinking in the pleasure of gazing upon gold that was in my very grasp and feeling a sort of independent bravado in allowing it to remain there. When my eyes were sufficiently feasted, I scooped it out with the point of my knife and an iron spoon and, placing it in my pan, ran home with it much delighted. I weighed it and found that my first day's labor in the mines had made me thirty-one dollars richer than I was in the morning."²

¹ Ryan II, 19, 20.

² *Six Months in the Gold Mines, &c.,* by E. Gould Buffum, Philadelphia, 1850, 61.

An improvement in the method of washing gold over that of the simple pan was that of the rocker or cradle, introduced as has been seen by Isaac Humphrey, a miner from Georgia, within a very few weeks after the gold discovery. The rocker consisted of a wooden box or trough, resembling a child's cradle with the lower end left open. At the upper end and just above where the head of the child would lie in a cradle, was fixed the hopper or sieve, usually made of a plate of sheet iron or, if that could not be procured, of a piece of rawhide, perforated with holes about half an inch in diameter. This hopper had moderately high sides, sufficient to hold several shovelfuls of earth without spilling over while being rocked from side to side, but at the same time low enough to allow stones to be conveniently picked out and thrown aside. On the floor of the rocker and extending transversely across it, at distances of a foot or so apart, were nailed two or three little strips of wood about an inch in height, called sometimes "bars" and sometimes "rifflers" but more properly "cleats," one of them at the end or "tail," as it was called, where the dirt was washed out. On the under side of the box or trough were fastened a pair of rockers, like those of a child's cradle, and nailed against the head on the outside was a perpendicular stick or handle to rock with. When in position for work, the rocker was placed on a solid surface near the earth to be worked and the water to be used in washing it and with the head a little elevated above the tail. If one man worked it, as was sometimes the case, he threw a few shovelfuls of auriferous earth in the hopper: then seizing the handle with one hand and at the same time dipping and pouring water on it with the other, he rocked until all the dirt and gravel, except the larger stones, were washed through the sieve; then more shovelfuls of earth were thrown in and the process repeated, the accumulating larger stones being from time to time thrown out. If several persons worked in partnership, as was usually the case, there was a division of labor and considerably more earth was washed and more gold collected than if each one worked separately.¹

¹ California Notes, by Charles B. Turrill, San Francisco, 1876, vol. I, 155; California and Oregon or Sights in the Gold Regions, &c., by Theodore T. Johnson, Philadelphia, 1865, 164; Buffum, 50-52; Ryan, II, 16, 17.

The physical principle upon which the pan and rocker and indeed almost all the other appliances subsequently made use of in California for like purposes was based, was the great specific gravity of gold. It is among the heaviest substances known, being a little over nineteen times heavier in proportion to volume than water;¹ seven times heavier than quartz rock and four times heavier than iron pyrites.² On account of its great weight, the gold particles, contained in the earth that was washed, sank to the bottom of the pan or rocker and by careful manipulation, while the gravel was thrown aside and the earth washed away, were retained and saved. Another remarkable quality of gold is that it readily amalgamates with mercury or quicksilver. On this account it was common, when sluices came to be used and quicksilver could be procured, to place a quantity of it in the bottom of the troughs, especially when the gold was distributed in very minute particles. The moment these particles came in contact with the mercury they were taken up and formed with it an amalgam of a consistency and color somewhat resembling dry putty. Upon subjecting this amalgam to heat the mercury was driven off in the form of vapor, which was generally re-condensed into liquid quicksilver; and the gold, in a more or less porous form but comparatively pure and capable of being melted into bars or ingots, was left. As the gold was found in a virgin state, and not as an ore, the various processes for gathering it were mechanical as contradistinguished from chemical; so that complicated apparatus and costly resolvents were unnecessary and the mining of gold was a business in which any person, even without capital or connection with others, could engage for himself and with fair prospects of success.

It was for these reasons and the consequent possibility of doing quite as well, if not better, by moving to new and as yet untried localities that the early miners were so restless and

¹ According to Berthier the specific gravity of gold is 19.258, which may be increased to 19.376 by hammering. Second Report of the State Mineralogist of California, Sacramento, 1882, 143.

² Manual of Mineralogy, by James D. Dana, New Haven, 1849, 133, 212, 311.

such constant wanderers. And it was for the same reasons that the mining regions were so quickly overrun and that new camps and new towns multiplied with such a rapidity as to be confusing. So long as a man could carry on his back everything that was requisite to procure gold, and the chances were not too great against his finding richer diggings a little further north or a little further south or a little higher up among the mountains, he did not feel disposed to remain where he was. With the possibility of doing better, he was not satisfied to let well enough alone. Until mining operations became larger and more expensive, involving great investments and requiring long-continued and persistent efforts before results could be looked for, the Californian miner would rather take the probable chance of making nothing than forego the possible chance of finding a bonanza. Thus in the very early days nearly all the miners were prospectors and spent much of their time, not in working their claims however valuable, but in rushing from point to point according to their notions of the distribution of the auriferous deposits or the multitudinous reports of new discoveries, which kept them in a perpetual ferment.

Coloma, though the site of the first discovery and the spot to which all the earliest gold-seekers rushed, was not as rich and favorable for mining operations as many other places in the mountains. The chief auriferous ground there consisted of the bar of gravel, sand and clay, deposited by the river on its south side, through which Marshall's mill-race ran.¹ The current of the stream at that point, flowing in a narrow valley hemmed in by steep and in some parts precipitous hills, had in the course of time, embracing many years and perhaps centuries, eaten into the northern bank and formed a considerable bend, which in its turn produced a deflection and eddy in the current and caused the deposition of some of the boulders, gravel and earth, including metal, brought down in seasons of flood from the higher regions above. The bar thus gradually accumulated was about half a mile long and about quarter of a mile broad, with its general surface sloping up from the water. In the course of a few years all this ground was worked over and yielded large

¹ Johnson's California and Oregon, 162.

amounts of gold; but various difficulties occurred about its early working, originating principally in the claims of Marshall, the discoverer, which tended to retard its rapid development.

When the contract for building the sawmill, which was situated within a short distance from the present town of Coloma, was made between Sutter and Marshall in the autumn of 1847, it was agreed between them that, if at the close of the Mexican war California should belong to Mexico, Sutter as a Mexican citizen should possess the mill-site, Marshall retaining his rights to mill privileges and to cut timber; while, if on the other hand the country should be ceded to the United States, Marshall as an American citizen should own the property.¹ It is obvious that no such agreement could have any validity or confer any rights whatever upon either party—in fact none but ignorant men would have thought of making such a stipulation. It is true that, if the country had remained Mexican, Sutter might have applied for and perhaps obtained a Mexican grant of the land; and equally true that, if the United States pre-emption laws had immediately been extended over California, Marshall might possibly, by complying with those laws, have obtained a title. But as matters stood then and for years afterwards, no one could acquire any right; and any compact in relation thereto was absolutely ineffective. Nevertheless Marshall and Sutter chose to suppose that they were in some sense the owners of Coloma and, when the rush of miners commenced, assumed the right to charge every one who worked there ten per cent. of all gold found.² This claim, whether known to be invalid or not, occasioned much dissatisfaction and was, in part at least, the reason why most of the miners moved off in search of new fields; so that in the summer of 1848, when E. C. Kemble, the editor of the California Star, visited Coloma, as has been seen, he found very little gold washing going on and therefore made up his too hasty judgment that the mines were a sham. Some months later in the same year Sutter, for a consideration of six

¹ *The Life and Adventures of James W. Marshall, by George Frederic Parsons, Sacramento, 1870, 79, 80.*

² *Statement of Samuel Brannan, Calistoga Tribune, April 1, 1872; Sacramento Union, April 13, 1872.*

thousand dollars, sold out all his claims in Coloma to John Winters and Alden S. Bayley; and about the same time Marshall, for two thousand dollars, disposed of one-third of his interest in the mill and timber to the same parties;¹ but he still claimed to be the owner of the ground and quarreled with all the newcomers, who as an almost invariable rule entirely disregarded his pretensions.

In the spring of 1849 a large number of these newcomers settled at and about the site of the mill by seizing and holding such portions of the land as they desired. They not only paid no attention to Marshall's complaints but after a little while, finding him to be a weak as well as querulous and quarrelsome man, they began to interfere with his employees at the mill and such of his live-stock and other personal property as he had in the neighborhood. In the course of a few months a mob attacked and killed some of his Indian workmen and, because he manifested a disposition to defend them, compelled him to fly for his life.² Afterward returning and apparently indulging too much in stories of imaginary discoveries, which especially after taking a glass too much he was fond of retailing, he got the name of possessing a knowledge of wonderfully rich diggings, the locality of which, out of pure obstinacy and contrariness, he persistently refused to divulge. He was therefore watched and his steps dogged from time to time; and at length he was threatened with lynching by a mob of his disappointed persecutors and a second time compelled to fly for his life.³ Almost every particle of property that he had or in which he was interested suffered during these enforced absences; it was not a great while before the very timbers of the mill were ripped up and carried off; and a few years afterwards, though Marshall managed to keep a cabin and a little patch of ground not very far distant and eke out a poor existence by his labor, every vestige of the sawmill disappeared and it afterwards became more or less difficult to point out with certainty exactly where it

¹ Parson's Life of Marshall, 108, 111.

² Life of Marshall, 113-115.

³ Life of Marshall, 117-119.

had stood, where the race had run and where the first piece of gold had been picked up.¹

There can be no doubt that California, and for that matter the world, was much indebted to Marshall for his discovery. Though that discovery was an accident and not the result of any special merit on his part, and though unquestionably it would soon have been made by some one else if it had not been made by him, still he was the man who in fact unlocked the great treasure-house and opened the door for that tide of immigration which has founded the new empire upon the Pacific. Had he been an ordinarily careful and prudent man, he might have accumulated sufficient wealth to render the remainder of his days comfortable; had he been an ordinarily steady and complaisant man, he might have enjoyed to his death the confidence and respectful consideration of all his neighbors. But unfortunately his losses and disappointments rendered him poor and despondent and soured his disposition; the infirmities of his temper involved him in repeated difficulties; he could not divest himself of the idea that he was the most meritorious and yet the most abused and outraged man in California; and he became a sort of misanthrope and lived mostly alone in his cabin, avoiding his fellows and nursing an old age of moodiness and dissatisfaction. The state of California in 1872 made an appropriation of two hundred dollars per month for his support,² which continued to be paid him for two years; and in 1874 it appropriated one hundred dollars per month for the same purpose for the next two years;³ and that was all the state gave while he lived. On the morning of August 10, 1885, about ten years after the last payment was made him, he was found dead in his cabin near Kelsey's. He had died, alone and unattended, at the age of seventy-three or, according to some, of seventy-five years. He had never been married. His remains were buried on a hill near the spot of his great discovery; and in 1887 the state, at an expense of five thousand dollars, erected over the place a monument in the form of a bronze statue of the discoverer, and after-

¹ Life of Marshall, 171-173.

² Statutes of 1871-2, 61.

³ Stats. 1873-4, 517.

wards, in 1889, appropriated five thousand dollars to improve the grounds and erect an iron fence around them.¹

Meanwhile the town of Coloma, though it did not advance rapidly, continued to grow; passed through the fever, the noise and the hurly-burly of all the mining excitements, and then experienced the slow decline of later years until it finally settled down into a peaceful village of a couple of hundred inhabitants, consisting chiefly of one street overshadowed with large, heavy-foliaged trees and made up of low-roofed houses, embowered in green creepers and bright flowers. Around it, upon the slopes and hillsides, evidences of a fertility and adaptability undreamed of in the early days, now flourish orchards and vineyards of the greatest luxuriance; and every year in the warm air of an unclouded summer sun peaches of astonishing size and flavor grow golden and red, and great bunches of grapes, that promise the most delicate of wines, swell and glow with exquisite color among the changing leaves.²

In the search for new deposits, after the gold-diggers began to separate and spread out from Coloma, one of the first notable places that were occupied was Mormon Island on the South Fork of the American river, about fifteen miles southwest of Coloma and between it and Sacramento. It was in the lower foothills of the Sierra; but the river in the neighborhood was still a rapid, brawling stream. The mining ground there consisted of a bar of gravel and earth, deposited by the river on its south side, a little larger than but resembling in shape that at Coloma. It is said that Marshall, on one of his trips between Coloma and Sutter's Fort, first noticed the spot; but whether so or not, a number of the former members of the Mormon battalion, that had been mustered out of service, were the first to mine there. At a very early stage of operations, a narrow canal appears to have been dug by them across the neck of the bar, converting it into an island and giving it the name, which afterwards extended itself to the village or town that grew up upon the higher ground to the south of it.³

¹ Stats. 1887, 50, 51; 1889, 133.

² Life of Marshall, 86-88.

³ Golden Dreams and Leaden Realities, by Ralph Raven [W. Shaw], New York, 1853, 92.

The object of cutting the canal across the Mormon Island bar was to drain a portion of the bed of the river and thus get at the lower lying and richer auriferous deposits. It was seen by the very first miners—and rendered more and more obvious to their comprehension by the daily exhibition of the great specific gravity of gold in their use of the pan and rocker—that the most of the metal would be found next the bed-rock or in the lower strata of the river bed. It became important therefore, whenever it was practicable, to turn the river channel in whole or in part; and various contrivances were resorted to, differing according to circumstances, for the purpose of accomplishing this object. In some places the entire stream was diverted into a new channel; in others it was made, by means of what were called wing-dams and coffer-dams, to occupy only one-half of the original channel, leaving the other half bare; and in still others it was confined in an aqueduct or flume of timber and boards, so built as to expose almost all the old bed. As it required aggregations of labor and capital to carry on enterprises of this kind, they were not so frequent and extensive in 1848 as they became in 1849; but still some of these works were commenced in the former year; and there were cases in which they yielded large returns.

As operations became more and more enlarged and particularly in cases, such as temporarily turning the current of a river, when it was important to reach the largest quantities of earth in the shortest periods of time, need was felt for a more capacious and rapid washer than the rocker; and the "long-tom" and "sluice" were resorted to. The long-tom consisted of a shallow trough of boards not less than fifteen feet long by as many inches wide and usually increasing in width towards the end, through which a continuous stream of water was conducted. A miner, standing by the side of this trough, would from time to time throw into it quantities of earth, which were carried along by the current to a sieve at the lower end, usually called the "riddle." At that point another miner stood with a shovel or pitchfork and threw out the boulders, rocks and stones, while the fine gravel and sand, including scales and grains of gold, were carried through and fell, in a hundred little streams, into a shallow box,

with an open lower end, which had cleats nailed to the bottom like the cradle. As the contents of the box, which was placed just below the riddle, were kept constantly agitated by the numerous streams pouring into it, the gold worked its way to the bottom and was caught and saved by the cleats or by the quicksilver usually deposited there for the purpose of catching the very fine dust, while the gravel, sand and mud were floated and carried off by the escaping water.¹ The sluice was a somewhat similar wooden trough, though often several feet wide and sometimes as much as twenty, with cleats and usually quicksilver at various points along it, having a similar continuous stream running through and being of sufficient length and inclination to insure the thorough washing of all the earth thrown in before it reached the lower end or tail. At some point along the sluice, at least as the same was afterwards improved, there was a grate of parallel iron bars, ordinarily called a "grizzly," that allowed the finer particles to pass down, but stopped the boulders and cobbles, which were thrown out as at the riddle of the long-tom. Frequently there was a series of sluice boxes, one below the other; and not unfrequently there were two sluice boxes side by side, the advantage of which was that while the gold or amalgam was being removed, or "cleaned up" as it was called, from one, the sluice stream might be turned into and continue to flow uninterruptedly through the other.²

The long-tom or sluice could of course only be used where there was a constant stream of water. Such a stream could be secured by throwing a dam across the bed of a river, or by a canal dug around a fall, or by any kind of aqueduct bringing water from a higher level. But one of the most common methods of supplying it, and what may be called a characteristic of the river mining of California, was by means of a water-lifting wheel. At nearly every point along those rivers, where operations of any extent were carried on, great wheels, consisting of shafts, arms and cross boards and resembling the paddle-wheels of a steamboat, immersed just deep enough to be driven by the

¹ Golden Dreams and Leaden Realities, 225.

² Turrill's California Notes, I, 156, 162-164; Three Years in California, by J. D. Borthwick, Edinburgh and London, 1857, 122.

current, extended across the stream and revolved with more or less noise and clatter but untiring persistency. Attached to each of these wheels, and worked by it, was some kind of a contrivance for lifting water, usually a series of buckets on a belt, or a chain with valves running through a trough, or a pump of large capacity; and every one of these contrivances supplied a long-tom and sometimes a sluice hundreds of feet long.¹ Especially when the bed of a river was turned and it was found to be rich, wheels were frequent and sometimes as close together as they could be built.

Among a people so inventive and so practical as the Americans in general, it could not be expected that every pan, rocker, long-tom, sluice box or water wheel would be an exact counterpart of every other. On the contrary they were made larger or smaller and differently proportioned according to the character of the work, the material procurable or the fancy of the operator. Sometimes instead of a metal pan, a wooden dish was made use of, as was usual among the Mexicans and those who had become familiar with placer mining in Spanish America. This wooden dish was known as the batéa. A rocker or long-tom for saving very fine gold was very different from the same character of machine for saving very coarse gold; and often after trial one kind of an appliance was altogether abandoned in a certain locality and another adopted. Sometimes a "puddling box" was used. This consisted of a box of rough boards, from six to ten feet square and a foot deep, and resembling an ordinary box in which mortar is mixed. The purpose was to work very tough auriferous clay, which required long stirring and soaking before it could be dissolved. A quantity of this clay being thrown into the box and covered with water, the miner stirred the mass with a hoe; and then, by removing a plug a few inches above the bottom from time to time, so as to allow the muddy water to escape, and then filling again with water and repeating the process, he gradually managed to separate the gold and retain it at the bottom of the box.² A very ingenious, as well as amusing, instance of applying means to ends is said to have taken place in 1849 in

¹ *Golden Dreams and Leaden Realities*, 225.

² *Turrill's California Notes*, I, 156.

the neighborhood of Quartz Hill near Shasta, where the gold was so fine that repeated attempts to save it by washing with a pan were found unsatisfactory. In casting about for some improved method of operation, one of the miners, a colored man, hit upon the device of using a hollow log with a couple of cleats in it, which he could roll from side to side something like a rocker. It proved very effective and served to largely increase the earnings of the inventor and his associates.¹

Such were the chief methods of collecting gold in the very early days; for it was not until 1852 that the method known as "hydraulic mining," by which whole mountains were washed down and passed through the sluices, was invented and still later that quartz mining to any very great or remunerative extent was carried on. But in the meanwhile various other methods were proposed and some of them tried. Many of the first-comers, particularly of those who came by sea, brought with them machines for washing gold, which had been invented by persons who knew nothing about the metal and were worse than worthless.² One was a dredging machine sent out by an enterprising New York company, which was intended to scoop up golden sands from the bottom of the Yuba river; but it was found in the first place that the river was not deep enough to float a machine of that character, and in the second place that the clay and gravel that contained the gold at the bottom of the river could not, on account of its toughness and tenacity and the rocks among which it was distributed, be dug up by any dredger.³ Another was a great, unwieldy tub, brought from an eastern city to San Francisco in 1849, and apparently there abandoned. It had been christened "The Patent Centrifugal Gold-Washer and California Chrysolite." The same writer, who mentioned it, said that the beach in front of the future metropolis of the Pacific was strewed with similar contrivances that could have been bought "as cheap as stinking mackerel."⁴ Governor Burnett in 1849 saw a num-

¹Shasta Republican of February —, 1856.

²Ryan, II, 26; Buffum, 99, 100.

³Reports upon the Mineral Resources of the United States, by J. Ross Browne and James W. Taylor, Washington, 1867, 20.

⁴Golden Dreams and Leaden Realities, 63.

An idea of the occasional earnestness and hard labor of the early miners is given by a writer who visited Coloma in April, 1849. In speaking of the work at that place, he said the scene presented was not less impressive than extraordinary. Some of the miners with picks and shovels delved among the scattered clumps of bushes or by the sides of large rocks, never raising their eyes for an instant from their labor, while others worked among the smaller stones and gravel or with trowels searched under banks and roots of trees. If rewarded with a small lump of gold, their eyes shone brighter for a moment; but the search was immediately afterwards and only more ardently resumed. At the edge of the river or knee-deep and sometimes waist-deep in water, as cold as melted ice and snow could make it, still others were washing gold with rockers or common tin pans, while the rays of the sun were pouring down upon their heads with excessive intensity. The thirst for gold and the labor of acquiring it seemed to have totally absorbed every faculty of the body and mind.¹

¹Johnson's California and Oregon, 162.

practices were openly brought forward. There were magnets and pointers and indicators of various kinds, each claimed by its supporter to be infallible in discovering gold if used with proper ceremonies; but the most common and popular of them all was the so-called divining-rod, used also in some cases in searching for subterranean water. It consisted usually, for there were different forms, of the fork of a hazel bush, so cut as to have a short pointed body and two arms comparatively long but stout and resembling the two equal sides of an isosceles triangle. When used it was held by the ends of the arms between the palms or the points of the forefingers and carried by the operator in a horizontal position with the pointed body in front. It was supposed by believers in it that, in the hands of a qualified person, the point would invariably dip in passing over auriferous ground and the more decidedly in proportion to the richness of the deposit.

But notwithstanding all these contrivances and appliances designed to save or at least to lighten and facilitate labor, and notwithstanding some of the old adventurers, on account of superstition, ignorance, instability or idleness, threw away or dissipated their energies to a greater or less degree, the generality of the miners in the early days were among the most steady, sober-minded and hard working of men. They were more or less restless and roved from place to place in search of richer and more favorable locations; but when they settled down to work, it was to work of the most toilsome character. While the knife and spoon, the pan, the rocker, the long-tom and the earlier forms of the sluice box were exclusively used and every man had to pick, shovel, remove boulders, carry earth, dip water, work the rocker or keep the sluice boxes clear—and this day in and day out, often standing in ice-cold water from the snow-fields of the Sierra summits and almost invariably, at least throughout the summer, in a broiling and blistering sun—it may be imagined that it was no easy work. The severity of the labor—and nearly every one of the miners labored harder in the pioneer years than ever before or afterwards—was remarked by almost every observer.¹

¹The California Pilgrim, &c., by Joseph A. Benton, Sacramento, 1853, 218; Golden Dreams and Leaden Realities, 117.

the dirt in which it was found could be easily reduced to powder. It appears to have been introduced by Mexicans from the dry and arid plateaus of Sonora; and they were the only persons that practiced it sufficiently to become experts. When they left or were driven out of the country, and particularly when the ditches and flumes supplied water in every direction, dry-washing came to an end.¹

In many places where the deposits were deep, and particularly in the dry diggings where the so-called bed rock was frequently many feet under the surface of the ground, it was necessary to sink wells or shafts to reach the pay dirt. Where these were too deep for the miner to throw out the dirt with his shovel, a windlass with a bucket was used, as in ordinary well-digging; but where the depth was not too great each miner had his separate hole, in which he delved, collecting the pay dirt from the bottom of his pit and as far on either side on the bed rock as he dared to excavate. Sometimes the excavations, instead of being vertical shafts, were sloping or horizontal tunnels into the side of a hill or bank and in some instances ran in hundreds of feet. In all these cases the men, while at work, were entirely out of sight of a person looking over the bar, flat or slope in which they were operating; but the approach of night or any alarm or unusual noise would cause them to pop out of their holes; and their supposed resemblance under such circumstances to the Californian animal corresponding with the prairie wolf of the Mississippi states caused these pits, shafts or tunnels to be called coyote-holes and the character of mining done in them coyote-mining. In subsequent years when hydraulic mining almost entirely superseded other kinds of placer work, coyote-mining, like the old operations of the pan, rocker and long-tom, became antiquated and unusual; but while it was in vogue many places were completely honeycombed by so-called coyote-holes.² One place in particular, near Nevada City, consisting of a rich hill of gravel, was so pierced with holes that it got and,

¹Ryan, I, 13, 14; Johnson's California and Oregon, 164, 165; Turrill's California Notes, I, 152, 153.

²Shirley's [Mrs. L. A. K. Clapp's] Letters in Pioneer Magazine, III, 308, 309.

for a couple of years and until it was finally all worked away by the hydraulic process, maintained the name of Coyoteville.¹

All the methods of mining, that have been mentioned, were resorted to and practiced in the early days with more or less success according to the locations of the mining ground and the circumstances of the miners. In the very earliest days, when only the knife, pan and rocker were used, as they could be easily carried from place to place, the miners were, as has been shown, almost constantly on the move. With the adoption of the water-wheel, the long-tom and the sluice, and especially when river beds had to be turned and expensive and difficult labors undertaken, sometimes lasting many months before returns could be looked for, mining camps became more and more permanent and led to the formation of villages and towns. Most of these in the course of a few years were abandoned. Some of them, however, on account of favorable location, managed to maintain their existence and keep a sort of halting pace with the changes of time, and a few developed into thriving and prosperous inland cities. But it was a general remark with reference to all of them that nowhere else in the world did towns spring up, change their populations or sink so rapidly as in the mining regions of California.

When the gold-diggers began to spread out from Coloma, some of them, as has been seen, moved down the river and commenced operations at Mormon Island; but most of them turned their faces in the opposite direction towards the higher regions of the mountains, from which it was very evident all or nearly all the gold in the river beds and bars had been washed down. While some followed up the South Fork of the American, others crossed over to the Middle or North Fork of the same river, while still others proceeded to other rivers and soon ascertained and demonstrated the fact that the gold-bearing country extended for hundreds of miles north and south of the place where it was first found. Within a few months after Marshall's discovery, John Bidwell, formerly an employee of Sutter and a prominent man in the country, who owned a rancho

¹ Historical Sketch of Nevada County, by E. G. Waite, in Bean's History and Directory of Nevada County, Nevada, 1867, 79.

in the neighborhood of what is now Chico, visited Coloma for the purpose of inspecting the auriferous ground and, upon casting his eyes upon it, immediately remarked that there was earth of the same general appearance upon his own land a hundred miles further north; and upon returning home and making an examination he found it of the same character and quite as rich as that at Coloma. About the same time Pearson B. Reading, another prominent man of the day, who owned a rancho near the present town of Shasta, upon going to Coloma, made a similar observation in reference to his land; and upon returning thither found it to be also auriferous and rich. And very shortly afterwards, similar discoveries were made at different points all along the Sierra slope southward as far as the great bend of the San Joaquin.

It is a peculiarity of the Californian rivers, occasioned partly by the manner of their formation and partly by the fact that the miners in rapidly following them up recognized and described them only as tributaries of the main streams from which they started, that they have become and are chiefly known as forks and branches, instead of by independent names. The American, Yuba and Feather rivers of the Northern Mines and the Mokelumne, Stanislaus, Tuolumne and Merced of the Southern Mines were so named long before the mining days; but in nearly every case the main river, so far as its name as such is concerned, extends only a short distance and it then divides into forks and sometimes into branches of forks, and in a few cases even into forks of branches of forks. Thus the main American river extends from its mouth in the Sacramento river only about twenty-five miles to where it receives its South Fork. It then extends twelve or fifteen miles further to the northeastward and then bifurcates into its so-called Middle Fork and North Fork; and the Middle Fork, and according to some the North Fork likewise, again bifurcates into branches. Each of these forks and branches as a rule flows through a very deep and narrow gorge, sometimes several thousand feet deep, with very steep and precipitous sides and rarely widening into what can be called a valley. The amount of water carried by them, particularly in the spring months when the ices and snows accumulated during the

winter in the higher regions melt, on account of its great fall in a comparatively short distance, amounting on an average to a hundred feet in a mile and in many cases much more, produces torrents which plunge along in their downward course with terrible erosive violence, constantly deepening their channels and forming banks and bars at every turn and eddy of the current. Each of these banks and bars, when the miners in following up the rivers reached them, and every gulch, cañon, flat and hill, where gold was found and miners camped, got its separate name, so that every mile or two up the rivers and up their forks and branches and up the ridges between them there was a new camp and a new name.

The names adopted by the miners for their camps and mining locations were usually taken from the names of the first settlers or from the names of the places from which they came or were of those slang names, already mentioned, which seem to have been chosen on the part of the unbridled adventurers as a sort of protest against the restraints of respectability. In some cases, however, the name of a place was taken from some circumstance connected with its foundation or growth; and not unfrequently a name, and sometimes the change of a name, of itself indicated more or less of the history of the settlement. In the account of the start and progress of a number of the principal mining spots, which it will be necessary to give in order to present anything like a correct idea of the early days of mining, it will be found that their names are often very suggestive and significant, differing very much from the Troys and Romes and Carthages, the Washingtons and Hamiltons and Jeffersons of the staid, slow-motioned, unimaginative people of some of the old eastern states.

After Coloma and Mormon Island, one of the next most important and earliest settled mining localities was a spot on the ridge south of the South Fork of the American river and about eight miles in a straight line southeast of Coloma. It was located on or near the head of a branch of Weber's creek and appears to have been discovered as a rich field for mining operations comparatively early in 1848 by William Daylor, one of Sutter's associates. It, or the creek upon which it was situated, though substantially dry in the summer, was noted, even as early

as the time of Governor Mason's visit, for its great richness; and it very soon became a populous camp, generally known, on account of its distance from the river or constant water, by the name of Dry Diggings. Much gold was taken out of the locality even in 1848. One night, about the middle of January, 1849, a Mexican gambler of the place, named Lopez, who had in his possession a large amount of money, was attacked in his own room by five men, overpowered and robbed. While the robbery was going on and before it was entirely consummated, an alarm was raised and a number of the miners of the neighborhood rushed into the house and seized the robbers. It is not likely that what may be called the public opinion of the camp cared very much about Lopez or his losses; but it plainly recognized the fact that such an offense as had in this case been committed or attempted to be committed could not under any circumstances be suffered to pass without notice. The next day, accordingly, as there was practically no such thing as a court in the mining regions and hardly any such thing in the whole country as could be called a judicial tribunal, the miners organized into a sort of committee of vigilance, tried their prisoners, convicted them and sentenced each of the five to receive thirty-nine lashes. The next day, which proved to be Sunday, was fixed upon as the time of punishment; and as Sunday in the mines was by a general consensus set aside as a day of idleness and recreation, there was a very large concourse from all directions to witness the widely-talked-about flogging of the five robbers that was to take place at Dry Diggings.

An eye-witness of the scene relates that on his arrival at the place he found a large crowd collected around an oak tree, to which was lashed a man with a bared back, upon which though already cut into bleeding stripes another man was applying with all his might a long rawhide whip. A guard of a dozen men, with loaded rifles pointed at the prisoner, stood ready to fire in case of an attempt being made to escape. After all had been duly flogged for their attempt to rob Lopez, fresh charges of robbery and attempted murder, committed the previous autumn on the Stanislaus river, were made against three of the men, two being Frenchmen and the third a Chileno. The prisoners, so accused,

on account of the severity of their punishment, were unable to stand and had to be removed to a place where they could lie stretched out; but this did not prevent their further trial from going forward; and it was conducted by the assembled crowd, consisting of some two hundred men, in their absence. The charges appear to have been substantiated, though they amounted to nothing more than attempted robbery and murder. But it seemed plain that the accused were bad men, whose presence was a continual menace to the community; and there was a general sentiment in the crowd that, law or no law, as there was apparently no other protection against them, they ought to be got rid of. At the close of the trial, therefore, which lasted only about a half hour and resulted in a unanimous verdict that they were guilty, when it came to the question as to the punishment to be inflicted, one of the crowd moved to hang them; and upon the proposition being put to vote it met with almost universal approbation.

Upon this E. Gould Buffum, the eye-witness referred to, who had previously been a lieutenant in Stevenson's regiment of New York volunteers and was afterwards editor of the Alta California newspaper, mounted a stump and with all the force and vigor of which he was capable and in the name, as he says, of God, humanity and law, protested against such an extreme measure. But the crowd, having made up its mind as to what was necessary and some being excited by strong drink, not only refused to listen to any criticism on their actions but even threatened to include the bold orator in the execution if he did not immediately desist from arraigning their conduct. It was very apparent that there was no use, under the circumstances, in attempting to say anything; and the speaker, coming down from his improvised tribune, prepared to witness the tragedy that he found himself powerless to prevent. Only thirty minutes' notice of the condemnation and sentence was given to the prisoners. They were then brought forward, bleeding from their flogging; placed upon a wagon, and held up while the ends of three ropes, which had been thrown over the limb of a tree, were fastened around their necks. No time or opportunity was given for explanation. They tried to speak; but as none of them spoke

English, the words they employed were understood by very few. They called for an interpreter; but in vain. Amid their own cries and the yells of the more brutal portion of the mob, their arms were pinioned; a black handkerchief was bound about the eyes of each; a signal was given; the wagon was drawn from under them, and they were launched into eternity. Graves had in the meanwhile been dug; and the bodies, when life was entirely extinct, were cut down and buried—and affairs at the camp resumed their ordinary course. But from that time forward, and until it became exclusively known as Placerville, the place, on account of the circumstances just related, went by the significant though by no means elegant name of "Hangtown."¹

In February, 1850, when the first statute dividing the state into counties was passed, the legislature called the spot Placerville and provided that either it or Coloma, whichever should be chosen by the qualified electors at the first election for county judge, should be the seat of justice of El Dorado county. Coloma won the contest and by act of April 25, 1851, was declared the county seat. Placerville, however, though defeated and perhaps to some extent handicapped by the name of Hangtown, which still clung to it, continued the fight and after several further struggles, one in 1854 and one in 1856, finally in 1857 won the victory and has ever since maintained its pre-eminence.² The town, as it grew up, after tents gave way to cabins and houses, became a straggling collection of buildings along a ravine and divided into two parts, one of which was known as upper-town and the other as lower-town. It grew rapidly and for a few years was one of the briskest places in the mountains. As a sort of center, in the midst of one of the richest regions in the country, it became a great place of resort for all the miners within eight or ten miles around; and especially on Sundays they would flock in from every direction—some to get or dispatch letters, to meet friends or hear news or to lay in new stocks of supplies, while others would seek the excitement of the bar-room and gaming table and spend in the dissipations of a day the

¹ Buffum, 83-85, 93.

² Stats. 1850, 62; 1851, 176; 1854, 74; 1856, 102; 1857, 83.

results of hard labor and isolation during the remainder of the week.¹

As the houses or cabins, of which Placerville consisted, were built, as has been stated, along the bed or bottom of a rich ravine or depression, it was soon found that some of the richest ground was under the cabin floors; and it became a not-uncommon thing for a miner to dig there and find a treasure. An eye-witness, who was at Placerville or Hangtown as he called it in 1852, says that upon going to the cabin of a friend, a doctor, he found a party of six miners busily at work on the inside. They had been employed by the doctor on an agreement to give him half of all the gold taken out of the ground under his roof. They had already dug two large holes six feet square and about seven feet deep and were then washing the earth taken out in rockers supplied with water pumped from the holes. When one part of the cabin floor was worked and washed out, the remaining gravel and dirt was shoveled back into the hole and another one commenced alongside of it. The labor of working up all the floor required about two weeks and proved very remunerative.² Another story of somewhat similar character—the general truth of which there is no good reason to doubt—and occurring in the same town of Placerville and about the same time, is told of a young man from a southern state, who had come out to California with one of his slaves. There were numerous instances in those times of adventurers from the southern states bringing one or more slaves with them; but it was usually only in cases of slaves upon whose fidelity the master could implicitly depend. Such was this case; and according to report master and man lived together sharing equally the labors and hardships of gold digging. One night the slave dreamed that they had been working the inside of a certain cabin in the town and had taken out a large pile of gold. In the morning he related his dream; but little or no attention was paid to it either by himself or his master. It happened, however, a few nights afterwards—so strongly it appears was his mind set in that direction—that the slave dreamed the same

¹ Borthwick's *Three Years in California*, 118.

² Borthwick, 162, 163.

dream over again; and the circumstance made so strong an impression upon him that he persuaded his master to believe there might be something in it; and, after considerable negotiation, saying nothing of the dreams to any third person, the master succeeded in buying the cabin. He and his slave immediately moved in and set to work digging up the earthen floor; and by the time they had washed over all the ground, they had taken out the very comfortable amount of twenty thousand dollars.¹

When subsequently constant supplies of water were introduced by means of extensive canals, so that work could go on during all times of the year, Placerville and its surroundings became as permanent settlements as any in the mines. Adventurers continued to come and depart as in other parts of the mountains and large portions of the population changed almost entirely within short periods; but the larger and more expensive the mining and cognate operations there became, the greater the number of persons who settled and remained; and thus Placerville, with its stores and shops, its hotels and express offices, its mills and banks, its halls and churches, its saloons and gambling houses, its stage lines, freight wagons and mule trains, advanced on the path of progress and got a population of between five and six thousand persons. It suffered ups and downs like other Californian towns and, in common with all localities where the chief business was placer mining, it lost ground with the decline of that kind of industry about 1856, though by that time it had begun to develop an aptitude for deep tunnel and quartz mining. A few years subsequently, or about 1859, when the Nevada silver mines were discovered and began to attract attention, Placerville, on account of its situation on the old emigrant road from Carson river to the Sacramento valley, being the most advanced prominent place on the most direct route from the bay of San Francisco to the new mines, took a new start as an intermediate point for passengers and freight; and it became and remained, until the Pacific railroad diverted the course of traffic, one of the most important and thriving business and trading towns in the Sierra Nevada mountains. It still has its mines, many of them paying and some rich; but, like its old

¹ Borthwick, 163, 164.

rival Coloma, it has found that its capabilities for orchards and vineyards and citrus fruits are extraordinary and that its mining grounds, which after passing two or three times through the rocker and long-tom of the old miners were supposed to be worthless, are much richer for horticultural purposes than they ever were for mines and that the treasures they now bear or are capable of bearing are not only unlimited but will continue to yield without exhaustion till a new cycle shall bring about a new distribution of land and sea.

Almost the entire region for miles about Placerville, and particularly along the ravines and depressions among the mountains, was very rich, easily yielding in the early days, and with only the pan, rocker and long-tom as appliances, over an average of an ounce per man per day; and on this account a number of smaller towns rapidly sprang up, having Placerville as a center and source of supply; and in the same manner so many little mining camps were established and for a time dotted the neighborhood with their tents or cabins that their names alone would fill pages. Among the subordinate towns, some of which were very notable places in their day, were Diamond Springs, Mud Springs or El Dorado as it got to be known, Logtown, Smith's Flat, Cold Spring, Gold Hill and Weaver Creek or, more properly, Weber Creek. Some of these localities were richer than others, though large quantities of gold were taken out of each. It is doubtful whether any yielded as much as the central town itself; but some of them certainly came very near it. The reason of this was because there were several ancient auriferous river channels near Placerville, which helped to increase the wealth of the later streams. One of them was known as the Blue Channel, so called on account of the color of its gravel or cement. It was the most ancient and ran in a northwest and southeast direction, several hundred feet wide and several hundred feet higher than the bed of Weber creek, which cut through it. Over this ancient channel with its well-defined banks lay a deep covering of lava, intersected by the channels or beds of several later ancient streams, which ran westward over the older blue channel and were called Gray Channels from the gray color of the gravel or cement deposited by them. These gray

deposits, which were from twenty to fifty feet deep, were mostly washed away but remains of them could still be traced for many miles near the tops of the divides, ridges and high hills. The modern streams, such as Hangtown creek and Weber creek and the winter torrents that swept through numerous side gulches and ravines, intersected these old channels and carried the gold they washed out of them down their own channels, dropping more or less of it in the various spots that afterwards became mining camps. One of these rich places was Diamond Springs four miles southwest of Placerville and another Mud Springs or El Dorado two miles further southwest. Diamond Springs grew very rapidly and in a few years had fifteen hundred voters. For a long time it was a rival of Placerville, which however outstripped it in the race. But it is still, notwithstanding the decline and substantial abandonment of placer mining, a pleasant and favorite place of residence, noted for its fine white sandstone houses and its ornamented cottages. El Dorado, though not so large, has had much the same history and is now surrounded by wonderfully productive orchards and gardens. There were several rich quartz leads in the neighborhood and a continuous line of quartz mills extended from them southward to the Cosumnes river. At Logtown, two miles south of El Dorado, a quartz vein was discovered in 1851, upon which a lessee put up a steam mill of eight immense stamps, each weighing twelve hundred and fifty pounds, and two extra-sized arrastras with drags or grinders weighing seven hundred pounds and making seven revolutions per minute.¹

Smith's Flat, about four miles east of Placerville, was on the Blue Channel before mentioned. It was a noted place in the early days, as was also Cold Spring about three miles northwest of Placerville and Gold Hill five miles northwest. Weber Creek, on the little stream of the same name into which Hangtown creek runs when it runs at all, was a place of wonderful wealth. It was the spot where Charles M. Weber of Stockton started a store and trading post in 1848, very soon after the discovery at Coloma, and where he carried on for a time one of the most remunerative retail businesses ever known. It was from that

¹San Francisco Bulletin of September 18, 1857.

enterprising and wide-awake capitalist that the place took its name; and it was from the place, in some part at least, that Weber got the start in the world, which taking the tide at the flood led on to his large fortune.

In following the paths of the old miners of 1848 from the South Fork of the American river to the Middle Fork of the same, the traveler passes over an interesting country, more or less rough according to the altitude at which he makes the transit and more or less pleasant according to the time of year in which he crosses. If he goes in the winter, he is apt to encounter rain, mud, high water and perhaps snow; if in summer, great heat in the gorges and ravines and often drought and dust along the roads. But in the spring, after the rains are past and when the wild flowers color the hills with their illimitable hues, or in the autumn, when the entire landscape is suffused with a warm haze ranging from deep purples in the foreground to light blues in the distances and all more or less softened with the golden rays of a tempered sun, the journey is delightful and to the real lover of nature absolutely enchanting. A writer who had occasion to cross over from Mormon Island to the Middle Fork in November, 1849, spoke of the beauty and glory of the scenery at that season as beyond description. In calling attention to the warm, hazy glow, resembling in some respects that of the many-tinted Indian summer of the eastern states, which followed the crisp and bracing air of the early mornings, he declared that it was not summer, nor spring, nor autumn, as they were known in other parts of the world, but a delicious combination of all three. The country was an endless succession of hills, whose distant slopes with their oak groves reminded one continually of thrifty apple orchards, while from every rise or summit a prospect was presented apparently out of all proportion with the trifling elevation to which the observer had attained.¹

Between the South Fork and the Middle Fork of the American river and about four miles east of Coloma was Kelsey's, one of the famous old mining towns. But the principal place on the ridge that divided those streams was Georgetown, which was

¹ Golden Dreams and Leaden Realities, 121.

about ten miles in a direct line northeast of Coloma. It derived its name from George Phipps, usually known simply as George, who was the first settler there.¹ In the autumn of 1849 it consisted of a collection of log houses in the midst of a pine forest,² and by degrees grew into a place of considerable importance, something like a smaller Placerville. It was surrounded by a number of rich diggings, among which were Greenwood, Mamaluke Hill, Georgia Slide, Bottle Hill, Cement Hill, Gravel Hill, Wolverine Hill and other places that yielded largely. In 1852 it was burned down; but it soon afterwards rose from its ashes, removed a short distance from its former site, and became larger and more prosperous than before. At a later date, when Nevada began to attract attention, efforts were made to divert the travel between Sacramento and Carson valley by way of a road over the Sierras through Georgetown; but they were only partially successful; and Placerville managed to maintain its advantages of having the start in the traffic and being backed by the most powerful influences.

Passing down the ridge to the Middle Fork of the American river one of the richest mining regions in California was encountered. It is estimated that there were at least ten thousand men at work on this Fork during the latter part of the summer and early part of the autumn of 1849 and that they extracted therefrom something like ten million dollars worth of gold-dust. When the banks and bars, after being worked over with more or less care, had ceased to yield remuneratively, the river was diverted from its wonted course and its bed wrought, usually with very large returns.³ Among the most famous places, directly on the river, were Murderers' Bar, Maine Bar, Spanish Bar, Ford's Bar and Rector's Bar, though there were many other rich diggings along the river and its side ravines and slopes that were almost as rich as those mentioned.

Murderers' Bar was a spot three or four miles up the Middle Fork from its junction with the North Fork. It derived its sin-

¹Twelve Years in the Mines of California, by Lawson B. Patterson, Cambridge, 1862, 38.

²Golden Dreams and Leaden Realities, 163.

³Buffum, 77, 78.

gular name from a circumstance that was altogether too common throughout the country in the early days. A party of Oregonians, seven in number, while prospecting in the neighborhood of the junction in the spring of 1849, encountered a large rancheria of Indians. There being good pasturage close by and the Indians appearing friendly, they determined to turn out their horses and take a rest. While idling about the place, one or more attempted to take improper liberties with squaws. Upon the latter crying out, several of the Indian men, or "bucks" as they were usually called, interfered for the purpose of preventing outrage, when the whites drew their revolvers and shot down three of them. The Oregonians then again mounted their horses and proceeding up the Middle Fork a few miles camped on the bank. The next day two of them went off to prospect in another direction while five remained to examine the Middle Fork. After an absence of several days the two, who had gone off, returned and found that all their late companions had been murdered by the Indians. Though this was plainly only in retaliation for the murders committed at the junction, the surviving Oregonians proceeded at once to Coloma, some twelve or fifteen miles distant southeastwardly, and managed to stir up the miners there to attack and kill a number of Marshall's Indian employees at that place, as has already been related, and start what was called the El Dorado Indian war hereafter to be mentioned.¹ Meanwhile the spot on the Middle Fork, where the Oregonians had been killed, got the name of Murderers' Bar and upon examination proved to be exceedingly rich in gold.

In July, 1851, when it was perhaps at its best for activity and yield, it was thus graphically described: "A turn in the road," said an eye-witness, "presented a scene of mining life as perfect in all its details as it was novel in its features. Immediately beneath us the swift river glided tranquilly, though foaming still from the great battle which a few yards higher up it had fought with a mass of black obstructing rocks. On the banks was a village of canvas that the winter rains had bleached to perfection and round it the miners were at work at every point. Many were waist-deep in the water, toiling in bands to construct a race

¹ Life of Marshall, 111-116.

and dam to turn the river's course; others were intrenched in holes like grave-diggers, working down to the 'bed-rock.' Some were on the brink of the stream, washing out 'prospects' from tin pans or wooden 'bateas;' and others worked in company with the long-tom by means of water-slides artfully conveyed from the river. Many were 'coyote-ing' in subterranean holes from which from time to time their heads popped out, like those of squirrels, to take a look at the world; and a few with drills, dissatisfied with nature's work, were preparing to remove large rocks with gunpowder. All was life, merriment, vigor and determination, as this part of the earth was being turned inside out to see what it was made of."¹

Spanish Bar, which was a few miles up the river from Murderers' Bar, appears to have been first prospected about the middle of 1848 by some of the early gold-diggers, who, as has been shown, spread out from Coloma when Marshall and Sutter began claiming a percentage of all gold dug at or near their mill-race. The new bar was found to be exceedingly rich—much more so in fact than Coloma. But it was not until a year or two afterwards, when all the improvements in mining methods and appliances were brought into requisition, that its real richness was proved by its actual yield of over a million of dollars. Ford's Bar, the next place that may be specially mentioned, was still further up the river. It was another exceedingly rich locality and turned out very large quantities of gold-dust. It appears to have been discovered in 1848 and was first worked by a man named Ford, from whom it received its name. He seems to have been of somewhat problematical character and, on account of his extraordinary good fortune in unearthing treasure, was regarded by many as a sort of second Captain Kidd, who had nothing else to do but dig up pots of buried ingots. It was said that for three weeks in succession he had taken out seven hundred dollars per day from a particular spot on the bar and that the place was from that time forward regarded with a kind of awful reverence. But unfortunately, according to the story, his luck did not last. In the midst of his golden harvest, he was

¹ Mountains and Molehills, &c., by Frank Marryat, New York, 1855, 213.

taken sick and obliged to leave the mines and make the best of his way to Sutter's Fort, which was at that time the nearest point where he could obtain the necessary assistance. Soon after reaching the Fort, however, he had not only spent all his earnings, but had run in debt to the amount of fifteen hundred dollars—the enormous price he was obliged to pay for medicine and attendance having swallowed up in a few days what would have sufficed under ordinary circumstances to support him during a lifetime. Such was the report about Ford and his bar; and it was sufficient to attract a great crowd of miners in the early part of 1849, by which time it was known as one of the most populous as well as one of the most wicked places on the river.¹

The remaining or North Fork of the American river extended from its junction with the Middle Fork, a few miles east of Auburn, the present seat of justice of Placer county, in a north-easterly direction to the vicinity of Lake Tahoe. The Central Pacific railroad runs along the ridge to the north of this Fork all the way from Auburn to the summit—much of the distance within sight of the river or its deep gorge and in some places, and notably at Cape Horn near Dutch Flat, on its precipitous bank, nearly three thousand feet almost perpendicularly above the foaming stream. On account of this proximity to what has been since 1869 the main route of travel between the Atlantic and Pacific states, this river and the principal places along it, and particularly upon the line of the railway, are in general better and more extensively known than any others in the mining regions. Many of these spots are exceedingly interesting, especially Auburn, which divided with Placerville the honor of being the center of the richest dry diggings in California, and Dutch Flat and its vicinity, about half way between the foot and summit of the west slope of the Sierra, which to this day present pictures of miles upon miles in extent of a country absolutely denuded, worked out and, so to speak, turned upside down by mining operations.

Along the river itself, or rather on the ridge between it and the Middle Fork, were numerous places very famous in the early times, among which may be mentioned Yankee Jim's, Illinois-

¹ Golden Dreams and Leaden Realities, 172, 181.

town, Wisconsin Hill and Iowa Hill near the North Fork, and Forest Hill, Michigan Bluff and Sarahsville near the Middle Fork. These, however, like those further north, which have been specified, were only a few of the multitudes of spots, the very names of which are now nearly forgotten, that for a time at least were thickly populated and extraordinarily active. The whole region, though very rough as may be judged from the fact that the rivers ran in gorges several thousand feet deep, with side cañons and gulches to correspond, and that nearly all of the places above named were at least two thousand feet above the nearest river bed and could be reached only by long, difficult and often dangerous trails, was quickly overrun and materially helped in turning out the yield of gold that in 1849 and the early fifties astonished the world.

It was said in 1868 that the claims within a rifle shot of the express office at Forest Hill, which was on the summit of the divide between the Middle Fork of the American river and Shirt-tail Cañon, one of the side gulches above referred to, about twenty miles northeast of Auburn and thirty-four hundred feet above sea-level, had produced not less than ten millions of dollars.¹ A few miles northeast of Forest Hill and still nearer Shirt-tail Cañon was Sarahsville, a rich spot settled in the spring of 1852. At the time of or soon after its settlement, a man and his wife went there to start a boarding house. As the lady was the first white woman to visit the diggings in that neighborhood, the miners resolved that the place should be called after her and sent a delegation to ascertain her name. That proving to be Sarah, the settlement was christened Sarahsville.² On the other hand Yankee Jim's, a few miles northwest of Forest Hill and also a very noted place in the early days, seems to have derived its name from a man, who had accidentally managed to strike rich diggings there. He was an Irishman but, on account of his luck which was popularly attributed to shrewdness, was known by the nickname of Yankee Jim. The place for a time contested with Nevada the honor of having had the first mining ditch in California; and, though it must yield the palm so far as prece-

¹ J. Ross Browne's Resources of the Pacific Slope, 92, 93.

² San Francisco Bulletin of August 10, 1857.

dence is concerned, there can be no doubt that it contained one of the first ditches and that its citizens originated and did not copy the enterprise.¹

North of the American and its forks is the Yuba and its forks, and north of them the Feather and its forks. The Feather is properly speaking a fork of the Sacramento and empties into it only about fifteen miles north of Sacramento city, while the Yuba is a fork of the Feather and empties into it near Marysville about forty miles north of Sacramento. Both the Yuba and the Feather have their respective south, middle and north forks, and some of them divide into subordinate forks. The two rivers, with their forks and forks of forks, drain an immense tract of country; and, with the American and its forks, they may be said to drain the entire western slope of the Sierra all the way round from a point due east of Sacramento to a point due north of it. Between the Yuba and the American is a comparatively short river, whose head-waters proved exceedingly rich in the early days, known as Bear river, which empties into the Feather about twenty-five miles north of Sacramento, while south of the American and between it and the Mokelumne is a river, flowing nearly parallel with the South Fork of the American and known as the Cosumnes, but sometimes called the Mocosme.

¹ Nevada Democrat of March 2, 1859.

CHAPTER III.

THE NORTHERN MINES (CONTINUED).

AMONG the noted places in the region drained by the Yuba and Feather rivers may be mentioned, besides Marysville at or near their junction, Park's Bar, Timbuctoo, Smartsville, Rough and Ready, Grass Valley, Nevada and North Bloomfield on or near the South Fork of the Yuba; French Corral, North San Juan and Foster's Bar on or near the Middle Fork of the Yuba; Camptonville, Alleghany City and Downieville on or near the North Fork of the Yuba; Oroville, about twenty-five miles north of Marysville, on the main Feather; Poverty Hill, Port Wine and Howland's Flat on or near the South Fork of the Feather; New York Bar and Nelson's Point on the Middle Fork of the Feather, and Thompson's Flat, Rich Bar, Cherokee and Crescent Mills on the North Fork of the Feather. Of the above-mentioned towns, in the region traversed by Bear river and the South and Middle Forks of the Yuba, the principal center, after leaving Marysville and getting up into the mountains, consisted of the two towns of Nevada and Grass Valley. These two flourishing places, which were situated about half way up the Sierra at an elevation of some twenty-five hundred feet above ocean level and in the middle of the timber belt, were of nearly equal size, not more than four miles apart and hence almost from their beginning occupied and still occupy a position among mountain towns something like that of double stars among the constellations of the heavens.

Park's Bar, which was some twelve miles a little north of east from Marysville, was perhaps the most noted of the numerous mining places on the lower Yuba river that have been entirely buried by débris from the hydraulic mines. The quantities of

this débris, including boulders, gravel, sand and mud that were washed down the river, were enormous. In 1868 it was said that the river had in some localities been filled up to a depth of seventy feet; and in the course of the next fifteen years and until the further pouring of this débris into the river beds was stopped by injunctions from the courts, the accumulations increased. Not only mining camps along the river were covered up; but also gardens, orchards, fields and in some places large farms. There were instances in which the débris, and particularly the lighter portions, sometimes known as "slickings," became a new soil and highly productive; and there is probably little that will not in time yield as well as the original ground; but the immediate effect—and that effect lasted for a number of years—was devastation and loss to the rancheros and orchardists; and hence the long and bitter controversy, that in after years occupied the legislature and the courts, known as the anti-débris struggle.

Besides Park's Bar, there was Ousley's Bar a mile or two below it and Long Bar a mile or two above it; and a few miles further up and on the south side of the river was Timbuctoo. This was one of the first places on the way up the stream where large hydraulic operations were carried on. The gravel there was about one hundred and thirty feet deep; and immense quantities of it, as the washing progressed, were carried down the stream and helped to fill up the valley below. Smartsville, which was four or five miles east of Park's Bar, was the leading town of the mining district embracing Timbuctoo a mile west, Sucker Flat a half a mile north, and Mooney Flat a mile or two east. Through these three places ran an old channel of auriferous blue gravel from six hundred to a thousand feet wide and of various depth according to location. In many places and particularly at Sucker Flat, just north of Smartsville, there were hills of this gravel with large trees growing on them; and the gravel was so compact that before it could be economically washed down into the sluice boxes, it had to be loosened and broken up by blasting. While gunpowder was used for this purpose, it was not uncommon for many hundred kegs, so distributed in tunnels, drifts and cross drifts as to easily communicate with one another,

to be set off at a single blast and bring down many hundred feet of ground at a time.¹

The first settlement in the neighborhood of Nevada and Grass Valley appears to have been made in the summer of 1848 by a trader named Rose at a place called Rose's Corral about ten miles to the southwest. Prospectors had already penetrated the region and the next year crowds of miners spread all over the country. In August, 1849, an Oregonian, named Findley, established a trading post near the point on Bear river where the old emigrant trail between Truckee and Sutter's Fort by the way of Johnson's ranch crossed that stream. It was said of Findley's establishment that it was for a time the only store between Bear river and Salt Lake at which emigrants could obtain supplies, and that in Findley's time bacon was sold there at two dollars per pound and shoe tacks at ten cents apiece. In September, 1849, David Bovyer established a trading post at White Oak Springs on the trail between Marysville and Nevada, and Captain Townsend, leader of a party called the Rough and Ready Company from Shellsburg, Wisconsin, built a cabin at Rough and Ready, eight miles west of Nevada. About the same time Dr. A. B. Caldwell started a store at Pleasant Flat on Deer creek, a tributary of the South Fork of the Yuba river; and in October, 1849, the same person started a second one, known as "Caldwell's upper store," seven miles higher up on Deer creek and within the present limits of Nevada City. Before the end of the year a trading post was started at Boston Ravine, a cabin on Gold Run, and a couple of sawmills near Grass Valley. These places, together with French Corral near the mouth of the Middle Fork of the Yuba, appear to have been the only settlements in 1849; but the next year great activity was manifested and thriving towns were built up at Nevada, Grass Valley and Rough and Ready, and settlements made at many other places round about.²

It appears that the first mining ditch in California was projected and constructed at Nevada in March, 1850. The region all around the town, which lies on both sides of Deer creek in a

¹J. Ross Browne's Resources of the Pacific Slope, 148-150.

²Waite, in Bean's History and Directory of Nevada County, 11, 12, 359.

basin or depression among the mountains, then covered with pine and oak trees, hazel bushes and chaparral and infested with rattlesnakes, was found to be exceedingly rich; but there were no permanent streams of water and the place, on account of the character of the ground, got the name of the "Deer Creek Dry Diggings." The ditch was designed to bring water from Musketoo creek a distance of about a mile and a half; and by its success, as the furnisher of an abundant and constant stream at Coyote Hill, it not only contributed materially to the growth of the town but furnished a model and example for other improvements of the same kind in other parts of the country, until the length and breadth of the mining regions were threaded in every direction with them. About the time of the bringing in of the water, there being then a population of several hundred persons at the place, a public meeting was held, an alcalde elected, and "Nevada" adopted by popular vote as the name of the new town.¹ Before the end of 1850 the town had increased so much that there were not less than two hundred and fifty buildings, and the prospects for the winter and following spring seemed so favorable that very large amounts of goods were packed in over the mountain trails at great expense. But the expected heavy rains did not come and the season proved so dry that the miners, except in a few spots, could not work to advantage and many of them moved off to other localities, while many of the traders, being laden down with expensive stocks that they could not dispose of, were seriously crippled, and some entirely broken up. To add to the troubles of the incipient town, a fire broke out in March, 1851, which laid one-half the houses in ashes. But as in the case of many other Californian towns, the destruction only caused Nevada to spring with renewed vigor from the flames; and by the end of April, 1851, not only no trace of the conflagration remained, but the necessity for action, called forth by the loss, had infused new energy into the population and the town rose larger, handsomer and richer, and its citizens more enterprising than ever; and as evidence of its advance a weekly newspaper, called the *Nevada Journal*, the first publication of the kind in the Northern Mines, was successfully launched and

¹ Waite, in Bean's Directory of Nevada County, 65, 73, 74, 78, 79.

a theater started. In May, 1851, an act passed the legislature of the state, organizing Nevada county out of what had previously been the eastern portion of Yuba and making the City of Nevada, as it was called by act of incorporation passed at the same session, the seat of justice.¹ From that time to the present it has remained the county seat and continued, though with varying fortunes, to advance in substantial wealth and in all the advantages that go to make it as a place of permanent residence second to none in the mountains of California.

Meanwhile Grass Valley, the neighboring town, which lay on Wolf creek in a southwesterly direction from Nevada and just over the ridge dividing the waters flowing into the South Fork of the Yuba from those flowing into Bear river, was advancing with equal steps. In the autumn of 1849 a company of miners settled on Badger Hill just east of the present town; and about the same time Jules Rosiere, a Frenchman, started a trading post in Boston Ravine on the other side of the town; while James Walsh and two brothers, named Samuel and George Holt, commenced building two sawmills about four miles below. Walsh's mill was to be propelled by steam; that of the Holt brothers by water. The latter was finished and commenced sawing lumber in the spring of 1850; but soon after it started an attack was made upon the establishment by the Indians, in the course of which Samuel Holt, the elder brother, was shot down by their arrows and killed, while George, after an extraordinary fight with eight or ten of the savages, having nothing with which to defend himself but a pocket knife and though wounded in thirteen places and covered with blood, managed to escape and reach his neighbor Walsh's place. That night Holt's mill was burned. The next day several of the whites carried the news to the United States post near Johnson's Ranch on Bear river, known as Camp Far West; and the day afterwards a company of twenty-four soldiers, supplemented by about a hundred miners from different points in the neighborhood and particularly Deer creek, proceeded against the Indians and either killed or ran them all off.²

¹ Waite, in Bean's Directory of Nevada County, 13, 80-82; Stats. 1851, 177, 339.

² Historical Sketch of Grass Valley, by William S. Byrne, in Bean's Directory of Nevada County, 185-187. The account of the Indian attack on Holt's mill was written by A. A. Sargent.

The early gold digging at Boston Ravine and Badger Hill like that at all the other places worked previous to the summer of 1850, was placer mining. But about that time gold was found imbedded in quartz veins near Oroville on the Feather river and soon afterwards on the summit of Gold Hill overlooking Boston Ravine. This discovery on Gold Hill, which proved one of the richest mineral veins ever opened, created the first great excitement about quartz veins and led to the establishment of that important species of industry known as quartz mining. In its beginning, on account of ignorance as to the best methods of extracting the gold from the quartz and of finding and following the auriferous veins in the ground, there were many failures; the first mills for crushing quartz were rude and inadequate affairs, and the working of veins, which have since yielded almost fabulous amounts of gold, proved for a while nearly ruinous. But in the course of several years, with improved methods and further knowledge of the distribution of the precious metal and how to follow the quartz leads bearing it into the bowels of the earth, quartz mining became the most reliable and remunerative mining business in the country; and of all quartz mining regions Grass Valley became and has continued to be the most reliable and remunerative. On account of the richness of its immediate surroundings, deep shafts and tunnels in pursuit of rich quartz, expensive mills to crush it, and extensive appliances for separating the gold from the débris spread in every direction and Grass Valley became a more populous and in some respects a more thriving place than Nevada. During the fourteen years after 1853, its quartz mines alone produced twenty-three millions of dollars.¹

It is claimed and apparently with truth that almost all the improvements in mining methods originated in Nevada and its neighborhood. In addition to the mining ditch, the long-tom and sluice seem to have been used there first of all places in California. So also, besides quartz crushing which was an entirely new branch of gold extraction, it seems certain that two other new kinds of mining started there, each of which has yielded immense amounts of gold. One of them was what is called

¹ Bean's Directory of Nevada County, 14, 48, 233.

cement mining. This originated in the fact that in many places the auriferous gravel and earth were so conglomerationed or cemented together that they could not be dissolved and washed in the ordinary way. On the contrary the conglomerationed mass had to be first crushed, almost in the same manner as quartz; and this gave rise, about 1857, to the use of cement stamping mills. Most of the cement deposits were parts of deeply sunken old river beds, so that as a rule the mills of this character, like the quartz mills, were run in connection with extensive shafts and tunnels; and among the principal locations of this kind in the neighborhood of Nevada may be mentioned Little York, some six or eight miles distant southeasterly, and the places in the same vicinity known as You Bet, Red Dog, Hunt's Hill, Gouge Eye and Quaker Hill.¹

The other new branch of gold extraction, which may be said to have been invented in Nevada county, was what is called hydraulic mining. There has been nothing in the way of gold mining in the world to compare, in extent of operations or in the changes produced in the character and appearance of the country, with this kind of work. It originated, so to speak, in the idea of a French gentleman, named A. Chabot, who in 1852 had a gravel bank peculiarly situated on Buckeye Hill a quarter of a mile north of Nevada City and a head of water considerably higher up. For the purpose of bringing down the water to his sluice, he used a hose, some four or five inches in diameter and about forty feet long; but after a while, instead of first shoveling the auriferous dirt and gravel into his sluice box and then turning the water on, he turned the water in the first instance from his hose directly on the dirt and gravel and swept the whole, water and earth together, into the sluice box, where the gold was separated from the débris in the usual manner. There was nothing new in the use of a hose to convey water; but Chabot seems to have been clearly entitled to the credit of first using it in connection with a sufficient head to produce a powerful stream and with it washing instead of shoveling his auriferous earth into the sluice box. The next year, 1853, E. E. Matteson, who was working a gravel bank on American Hill, a half mile west of

¹ Bean's Directory of Nevada County, 57, 58.

Buckeye Hill and on the same general drift and similarly situated to that of Chabot, rigged up a hose, attached a metal nozzle, which Chabot did not have, to the end of it and, turning the concentrated and powerful stream issuing therefrom directly against the gravel bank, found that he could work down and sweep into his sluices, with a comparatively small stream having a sufficient head of water, more earth than could be dug and shoveled by the labor of a hundred men. Out of Matteson's nozzle was developed by successive improvements the so-called "monitor," a contrivance by which the concentrated stream could be regulated and thrown, without difficulty or trouble, in any desired direction; and to such a degree of perfection was the invention carried that with proper aqueducts, pipes, hose and monitors large streams could be thrown hundreds of feet and with the force of a cannonade. In a very short time hydraulic mining came into general use wherever there were gravel banks to which water with a sufficient head could be brought; and in many places whole acres of ground from one to two hundred feet deep undermined, washed away and run through the sluice boxes in a single season. So effectual was the process found for excavating large quantities of earth that it was afterwards employed to some extent in cutting through the deep gravel hills near Dutch Flat for construction of the Central Pacific railroad.¹

The immense effects of hydraulic mining soon became apparent not only in the great yield of the sluice boxes supplied by it but also in the denudation of the country wherever it was applied; and still more so, perhaps, in the filling up of the river beds and valleys with the boulders, gravel, sand and mud known under the general name of "débris." While this species of mining was going on and until it was stopped by the courts on account of the damage caused to the agricultural districts below, the various rivers into which hydraulic streams ran, instead of being as they originally were remarkably pure and clear, became constantly muddy and foul; their beds filled in from thirty to seventy feet, and their valleys, including low-lying fields, orchards and gardens sometimes for many miles, covered with a thick, whitish-brown coat of gravel, sand and slimy mud, which could not for many

¹Bean's Directory of Nevada County, 62, 63.

years, or until its composition was changed by long exposure or manure, be profitably cultivated.

One of the most noted hydraulic mines was that known as North Bloomfield, some eight or ten miles northeast of Nevada City. It was situated near a little creek flowing into the South Fork of the Yuba and between it and the Middle Fork, where, about the year 1851, a prospecting party consisting of two Irishmen and a German discovered a rich deposit of gravel. After working it for some time and finding their provisions running low, they sent one of the Irishmen to Nevada with several hundred dollars worth of dust for supplies but with strict injunctions to keep silent as to their fortunate strike. The Irishman sold his dust, purchased his supplies and a mule to pack them, and got ready to return. But having some money left, he could not resist the temptation of a little conviviality ; and, as one glass led to another, he grew more and more loquacious and at length began to boast of the money he and his partners were making. When asked where his claim was situated, however, he seemed to remember his promises to be discreet and refused to disclose the locality. But the next morning, when he started off, he was followed at a distance by a hundred or more excited adventurers, who succeeded in tracking him to his camp. They prospected for several days along the creek and found a little gold but for some unexplained reason failed to find rich deposits and, returning disappointed to Nevada, unanimously pronounced the creek a humbug ; and from that time forward, whenever the place was mentioned, it was called Humbug creek. Subsequently in 1853, when hydraulic mining commenced there and a town started, it was also called Humbug from the name of the creek. In 1856, after the place, on account of the great richness disclosed by the deep hydraulic diggings that had been opened, became one of the liveliest and most prosperous towns in the county, the citizens, on the occasion of procuring a post-office, had the name changed to that of North Bloomfield.¹

French Corral on the ridge near the confluence of the Middle Fork with the main Yuba, and about two thousand feet above ocean level, was the lower limit of the gold-bearing gravel range

¹ Bean's Directory of Nevada County, 39.

in that region. It got its name from the fact that the first settler, a Frenchman, built and maintained a corral for mules there. Being soon afterwards found to be valuable mining ground, it became the scene of extensive mining operations, retaining its old appellation. It and several other points, including North San Juan and Foster's Bar on the Middle Fork of the Yuba, as well as Camptonville, Alleghany City and Forestville, a little further north and on or near the North Fork of the Yuba, were all thriving mining towns. But the most interesting and perhaps the richest town in that part of the country was Downieville, some twenty-five or thirty miles northeast of Nevada, whose early history furnishes a very good idea of the circumstances under which many of the mountain settlements were started and developed.

It appears that a Scotchman, named William Downie, usually called Major Downie, who arrived at San Francisco by sea in June, 1849, made up his mind soon after landing to proceed to the mines. Reaching Sacramento on his way thither, he made inquiries as to the diggings—how far off they were, how rich, where the best were situated, and as to other matters relating to them; but, to his surprise, he found that he could learn nothing—no one seeming willing to give him information. Under the circumstances, taking advantage first of an offer to assist in rowing a launch up the Sacramento and Feather rivers to Nye's ranch near Marysville and then of an offer to assist in driving a mule team from there into the mountains, he found himself at Ballard's Bar on the Middle Fork of the Yuba in the midst of mining operations and at once commenced work. His first experience was with a rocker, and then he tried wing-damming, and then trading with miners in connection with mining; but, though he continually gained new ideas, he made no fortune at either. In the meantime his active mind was brooding over the question where the gold came from. It was plain, he thought, that it came down the river; and if so, was it not likely that the smaller and lighter particles were carried by the current further down than the larger and heavier pieces? One morning, while he was thinking over the question, two men came down the river from twenty-five miles further up and, having occasion to make

some purchases from him, when they came to pay, instead of the fine scale-gold such as was mined at Ballard's Bar, they used large lumps. The sight of the coarse gold and the knowledge that it came from above seemed to furnish a solution to his problem; and he immediately determined to seek new fields for labor nearer the summit of the Sierra, where he felt sure that gold would be found in large pieces and better shape to gather than below, even if perchance there might not be so much of it. Having once made up his mind to this effect, he proceeded up the river to Foster's Bar, where he purchased a horse, pack mule and general prospecting outfit; and, though efforts were made to dissuade him from proceeding further up by stories of the impossibility of wintering in those elevated regions and of troubles with the Indians, he perfected arrangements with an Irish lad, named Michael Deverney, and ten colored sailors to accompany him, and on October 5, 1849, started up the ridge north of the river for the higher regions northeastward.

Foster's Bar, which seems to have derived its name from a rough character of the region, said to be partly horse-thief and partly philanthropist, being ever ready to steal a mule or nurse a sick miner, and who was usually known, apparently from a scar received in one of his dark adventures, as "Cut-eye" Foster, was at the time a lively place. But it was supposed to be the highest point in that part of the mountains to which pack animals could travel or which could with any certainty rely upon receiving supplies, especially in winter. On the ridge above the bar was a corral kept by Foster—the one into which he was in the habit of driving mules that had no owners in sight; and there for a few days Downie and Deverney and their colored companions stopped, while one of the party went back after an Indian and a Kanaka known as "Jim Crow," afterwards notorious in the mountains, who had agreed to accompany them. While at Foster's Bar, Downie had a talk with Foster about the Indians, against whom he had been warned, and learned from the frontiersman that, notwithstanding his wild life of exposure, he had never had any trouble with the children of the forest. Foster gave as a reason, that he felt no prejudice against the Indians; that he did not bother them or bother himself much about

them; that if they stole meat, or "carne" as he called it, as was sometimes the case, he did not make a fuss about it; that he supposed they ought to have something to live on, even if they had to steal it, and that, judging from his own experience, he did not think there was any danger to be anticipated as long as they were not molested.

Upon the arrival of the absent member of the party with the Indian and Jim Crow, Downie started on boldly mounting the precipices in front. They passed a couple of blazed trees, showing the direction of Goodyear's Bar, which had been located early in 1849 by Miles Goodyear and was the earliest mining camp in that region, and passed what was afterwards called O'Donnell's Bar and reached the North Fork of the Yuba. At the spot where they struck it, near its forks, they met a few miners; but they were very uncommunicative, being unwilling to give any information; and Downie and his party, with the comfortable reflection that they would soon learn more than the others could teach, went on. From there travel was exceedingly rough. The animals in places had to be pulled up or lowered down declivities with ropes. At a place, afterward called Jersey Flat, Jim Crow speared a salmon-trout, weighing fourteen pounds, with a crow-bar; and, after boiling it, gold was found in the bottom of the kettle. At the place afterwards known as Zumwalt Flat, higher up the river, they commenced mining with rockers and made from three to five ounces per day per man. A day's work there and with them was about three hours and a half. The metal was what was called coarse gold. But soon these returns did not satisfy. They looked for something better and found, a short distance further up the river and apparently near the present town of Downieville, a place where it was no uncommon thing to make thirteen or fourteen ounces per day per man at crevicing. They had taken with them a brass half-ounce weight and with this as a scale, using molten lead, they managed to make an eight-ounce weight, apparently forgetting, if they ever knew, that gold was to be measured by troy and not avoirdupois weight and that eight ounces, whether troy or avoirdupois, constituted in one case fully two ounces more than half a pound and in the other nearly so. But as they soon got

to reckoning their days' labors not in ounces but in pounds, a few ounces per pound more or less made little difference.

Opposite Zumwalt Flat was a small bar, which Downie examined and desired to work; but his companions preferred other spots and, rather than labor alone, he went with them further up the river. That same place was afterwards called Tin-cup Bar from the fact that for a long time it paid a tin cup or pint full of gold per man per day. Meanwhile Downie and his companions settled down for the winter on the South Fork of the North Fork of the river about half a mile above the present town of Downieville. Working there with a companion on a claim ten feet in length along the river, he took out on the first day seventeen ounces; the next day twenty-four ounces; the third day twenty-nine ounces and the fourth day forty-nine ounces. The entire party appear during the same four days to have taken out six thousand dollars. By that time provisions began to fail and eight men, including Jim Crow, were sent off down the river with all the animals for new supplies. They left with the promise of a speedy return; but nothing more was seen of any of them until the next spring when Jim was accidentally encountered with a large number of followers on his way to new diggings in Jim Crow Cañon. Downie and his remaining companions, after waiting some time for their expected supplies and receiving none and after considerable suffering, broke up camp and moved down the river. It was on their way down that they met the mercurial, unreliable and thievish Jim as before stated. Upon thus coming together, Michael Deverney, Downie's Irish partner, wanted to put a hole through Jim for the scurvy trick he had played them; but the prudent Scotchman answered that it was more Christian-like, in view of Jim's many retainers and followers, to have nothing further to do with him.¹

The town of Downieville grew up from the settlement thus first made by Downie, Deverney, Jim Crow and their negro companions in 1849. It is at the junction of the North and South Forks of the North Fork of the Yuba, about two thousand feet above sea-level and in one of the roughest regions in

¹ Downie's Reminiscences, in Downieville Democrat of April, May and June, 1858.

California. Some early visitors, on account of the great depth of the gorge in which it is situated—the trail leading to it descending twenty-eight hundred feet in four miles—called it a hole in the ground and said it was well named Downieville, for the reason that it was about as far “down” as it was possible to get. On the other hand there is, within ten or twelve miles to the northeast of it a group of some of the highest and perhaps the steepest mountains in the state, known to some as the “Downieville Buttes” and to others as the “Sierra Buttes” and famous for deep winter snows and avalanches as well as for rich quartz. But notwithstanding its rough and precipitous topography Downieville became a delightful place of residence and advanced with strides that for a mountain town could well be called rapid. It soon had its halls and churches, its newspaper and theater and everything indicative of progress in culture. In April, 1852, upon the creation of Sierra county by the state legislature, Downieville was made the seat of justice, and it has ever since remained such.¹

There were several other rich and interesting camps in the same neighborhood, whose early history will serve still further to illustrate the character of the settlements in California by the miners. About the beginning of July, 1850, a very large party of prospectors, at least a hundred and thirty in number, among whom was an individual familiarly known as “One-eyed Moore,” stopped at a beautiful flat some twelve or fifteen miles northwest of Downieville which, on account of its being thickly covered with wild onion plants, they called Onion Valley. In making an examination of the ground in the vicinity Moore discovered rich diggings; and, upon his report, it was determined to locate a permanent camp there. Some of the party immediately commenced building a log cabin; some were sent to Downieville to procure goods and provisions to open a store, while the others either worked the diggings already discovered or hunted for others. The region proved exceedingly rich and in the course of a few months mining camps were formed and work carried on at Dixon’s Creek, Poorman’s Creek, La Porte and numerous other places in the vicinity. Onion Valley meanwhile advanced

¹Stats. 1852, 230.

rapidly. Moore, after taking out several thousand dollars, with the restlessness peculiar to the old miners, moved off for other and fresher fields; but others came in and in 1851 the population reached about fifteen hundred. Several large masses of gold have been found there. On January 1, 1851, a deposit was struck from which over six thousand dollars were taken in an hour and a half, including one nugget worth eighteen hundred dollars and several worth nearly five hundred each; and a few days afterwards, on turning over a large quartz boulder, "half a man's hat full" of gold was picked up under it.¹

Another place of interest in the same vicinity was Sears' Ridge, which took its name from an old sea captain, who in the spring of 1850, while traveling over the divide between the North Fork of the Yuba and the South Fork of the Feather river, was overtaken by night and compelled to camp on a kind of flat through which ran a ravine. The next morning he noticed indications of gold on the spot where he had staked his mule and on investigation found good prospects, which upon further trial yielded well; and, after prospecting for several days and satisfying himself of the richness of the entire region, he returned to his camp on the Yuba, informed his partners of his success and made arrangements with them to move their camp to the new diggings. About the beginning of June, however, when everything was ready for moving, a rumor was started that "old Captain Sears had struck it rich" and when he and his party were about starting off they found themselves pursued by a large number of followers, headed by a man named Gibson. Sears and his party, finding themselves likely to be seriously interfered with, turned on their pursuers and ordered them to return. They replied that the mountains of California were as free to them as to anybody under the sun, and that they were ready to fight for their rights if necessary. Their bearing showing that they meant what they said and their numbers being large enough to make good their claims, Sears and his party agreed to a compromise, by the terms of which the newcomers were to be shown the new diggings on condition of not divulging their location to others and on the further condition that Sears and his party were to be paid one hundred dollars

¹ Tuolumne Courier of April and May, 1860.

each and Sears himself allowed a double share of mining ground for his discovery. After this agreement the two parties proceeded together to Sears' Ridge and commenced operations; but the circumstances under which they were placed induced a great spirit of rivalry between Sears and Gibson and led to discoveries of diggings in the neighborhood much richer than those originally found. Gibson, who proved to be a very active, enterprising and intelligent prospector, in searching about came upon a deposit of gold on a ridge adjoining that of Sears, which proved to be much richer. Without saying anything to anybody, he established his individual camp on the new ridge, at the place since called Gibsonville, not far from Onion Valley; and soon afterwards he struck diggings at what became known as "Secret Ravine," out of which he took many thousands of dollars.

The name Secret Ravine appears to have been given to Gibson's new diggings on account of the fact that he kept them secret from his partners or companions. Whether he played them false or not, he was at least charged with doing so; and a very violent quarrel arose in which there was much talk on his part of shooting and on their part of hanging. But after the expenditure of much foul breath the threats on both sides vanished into thin air, while Gibson, though obliged to relinquish all his other claims, managed for a long time to monopolize and make a fortune out of Secret Ravine. Meantime Sears kept on prospecting; but not long after the breaking up of the Gibson party, Sears' associates, like Gibson's, became dissatisfied and split up into little independent camps. As they scattered around in every direction, a number of new discoveries were made and new camps established in the vicinity of the original location, among which were Howland's Flat, Pine Grove, St. Louis, Poker Flat, Chandlerville, Port Wine, Seales' Diggings, Poverty Hill and Brandy City. The region proved so rich that almost every part of it, wherever the gravel could be reached, yielded large sums. At the place called Port Wine for instance, which may be taken as an example of all the diggings in the neighborhood, a party of prospectors in traveling along one hot day happened to find a keg of port wine, which had been concealed by some packers in the bushes. They broached it and drank freely and

then hunted for water, which they finally found in a deep ravine. In the ravine was also gravel; and, on examination, it proved so rich that the party located there and called the place Port Wine. Later on, when placer mining by the ordinary methods had been very generally given up, an exceedingly rich quartz vein was discovered near Pilot Peak, fifteen miles north of Downieville, under the following circumstances. A Frenchman, who had gone out shooting with a Spaniard, fired at a bird but missed and struck a piece of quartz rock, which came rolling down the hill. The Spaniard picked it up and noticed that it was studded with gold. Upon going to the spot from which it had been detached, they found an outcropping of auriferous quartz, from which they broke off and carried to Pine Grove a large piece that turned out to be about two-thirds solid metal. A company was soon formed and the new vein worked; and it yielded for many years very large returns.

But the richest place in the region, perhaps, was that known as Kanaka Creek. Mention has already been made of a Kanaka, called Jim Crow, and his discovery of Jim Crow Cañon. After that time and about May, 1850, another Kanaka, usually known as Captain Ross, who was generally reported to be a son of King Kamehameha and had a large following of Sandwich and other Pacific Islanders, at the suggestion of William Downie, sent out several prospecting parties. One of them soon afterwards reported the discovery of a rich deposit; and Downie, upon visiting the place, confirmed the report. There was at once a rush to the place, which got the name of Kanaka Creek from its discoverers; and very large nuggets were taken out of it. In July, 1850, a piece of quartz and gold, weighing nearly thirty pounds, was discovered by two sailors, an American and an Englishman, which was supposed to be the largest piece up to that time found in that part of California; but it was not the largest and was much excelled by other discoveries of later years.

In July, 1852, an old English sailor, who on account of having acted as ships' carpenter, was known by the name of Chips, discovered on Minnesota Flat, just above the forks of Kanaka creek, an outcropping of blue gravel, which eventually led in that part of the country to the location of the famous Blue Lead and the

opening of innumerable tunnels and shafts tapping it. Chips lived alone in a dirty old cabin and was hardly ever known to be sober; but for some reason or other, whether it was his intelligence or his luck it might be hard to tell, he was one of the most fortunate prospectors in the mountains. After he had made his first discovery and had sold out on good terms, he went over to a place afterwards called Chips' Flat on the opposite side of the ridge; and, running a tunnel from there towards Minnesota Flat, he struck richer ground than ever. Unfortunately for him, however, his proceedings indicated but too plainly his great secret, which was nothing more nor less than a knowledge or a shrewd guess of the existence and position of the extraordinary ancient river-bed deposit, running through a large portion of the auriferous region of that part of California, called the Blue Lead; and, though at first Chips found purchasers for shares in his tunnels, competitors in great numbers sprang up and ran opposition tunnels in the same general direction. Meanwhile his immediate partners, being satisfied that there was no more room to make money out of his sagacity, desired to get rid of him and suggested various propositions with this end in view. But Chips, apparently suspecting their motives, refused to dispose of his remaining interests. His feelings in this regard being made plainly manifest, his partners determined to adopt a different and, as it proved, more effective plan to accomplish their purpose. This was to purchase a barrel of the rawest, roughest and most fiery whisky they could find—a barrel in fact of the distillation which was indiscriminately known as "tangle-foot" or "tarantula-juice"—and make him a present of it. The fearful stuff was in reality almost as absolute poison as was ever administered; and it was given with as murderous an intent as the potions of Lacusta or Lucretia Borgia. Chips, as it appeared, had been proof against wind and wave, against hunger, thirst and privations of many kinds, against short allowance even of lobscouse and dunderfunk; but the villainous compound thus commended to his lips was too much for him. In a very short time he died—some said of delirium tremens, others of laudanum—and what property he left was divided up amongst his partners.¹

¹ Tuolumne Courier of May and June, 1860.

Some eight miles south of Downieville was Forest City, another very interesting point not only on account of the richness of its deposits but also on account of its delightful topography. It appears to have been discovered as a mining locality by Michael Savage in 1853 and was then known as the "Forks of Oregon creek." Afterwards, when the first store or trading-post was established there and the place began to look like a town, it was sometimes called "Yomana," which was said to be the Indian name of a bluff just above the village and to signify the sacred hill or most holy spot in all that section of country. When the town grew larger and it became important to adopt a permanent name for it, the question was submitted to a popular vote; but, it being found that the suffrages were equally divided between "Forks of Oregon" and "Yomana," a proposition was made and carried to call the town after the first woman who should reside in it. Not long afterwards a barber named Davis and his wife Mary located there; and the place began to be called "Marietta." Next came a man named Sparks and his wife Maria, whom the name suited quite as well as Mrs. Davis. But about the same time Davis sold out to a Captain Mooney and his wife, whose first or Christian name was Forest. This lady appears to have been fond of writing for the newspapers, dating all her effusions "Forest City;" and she also seems to have successfully used her powers of persuasion with some of the principal residents of the place in favor of adopting the name Forest City instead of Marietta. Between the residents thus won over and the newspapers, the name of Forest City soon became irreversibly fixed; and it was derived, as shown by the foregoing narrative, not from the magnificent forest of conifers that surrounded it, but from Mrs. Forest Mooney, the newspaper correspondent.¹

The auriferous regions drained by the Feather river and its tributaries were quite as extensive as those drained by the American or the Yuba and contained quite as many mining towns and camps. The largest place was Oroville on the main river, some twenty-five or thirty miles north of Marysville and about sixty-five in a direct line north of Sacramento. Very soon after the discovery of gold by Marshall, John Bidwell, as has been

¹ Tuolumne Courier of May, 1860.

seen, discovered rich diggings near Oroville; and in a short time mining was going on at various points in the neighborhood and up the various branches of the river. One of these places was Bidwell's Bar on the Middle Fork of Feather river, some eight or ten miles east of Oroville. It was a very active and growing town and in 1853, under the name of Bidwell, became the seat of justice of Butte county, then embracing the present Plumas, Tehama and Colusa counties as well as Butte. Subsequently, in 1857, the seat of justice was removed to Oroville, which by that time had far outstripped Bidwell in growth.¹ It was just above Oroville, at what were known as the Cape and Union Cape claims that one of the most stupendous mining enterprises in the state was carried on in the shape of turning the main Feather river out of its bed or channel. To accomplish this work a trench nearly a mile long had to be excavated in solid rock, in many places forty feet deep, and a flume of timber constructed, strong enough to carry the entire stream, forty feet wide, seven feet deep, and five thousand feet long. In this flume were eighteen water-wheels, each attached to a pump drawing water from the river bed, and working night and day. Besides this extensive river-mining, there were numerous gravel deposits and some quartz claims at or near Oroville; and among them all, including the clatter and creaking of the wheels and pumps at the river, there were noise and bustle in great plenty. But almost all the ventures yielded good returns and the place well earned its name of golden city.²

The South Fork of the Feather was a comparatively small stream, heading in the neighborhood of Pilot Peak north of Downieville, while the Middle and North Forks were long streams with many branches, coming down—the first in a southwesterly direction from the summit ridge of the Sierra and the second in a nearly southerly direction from the neighborhood of Lassen's Peak. Between them were various affluents, some of which flowed through beautiful mountain valleys but otherwise cut an excessively rough and broken region and in one or two instances made almost complete circles in their courses. A

¹ Hittell's General Laws of California, 1144.

² San Francisco Bulletin of June, 1858.

remarkable example of this was what was called Spanish creek, a branch of the North Fork, which flowed first southerly, then easterly, then northerly and finally westerly before it joined the Main Fork. This Spanish creek flowed for some ten miles through American valley, which, like Indian and other elevated valleys near the Sierra summit, was a rich agricultural region and especially important in that remote country of mines inasmuch as it afforded cheap and convenient supplies of grain and fodder, which would otherwise have been excessively dear. Among the noted points on or near the Middle Fork were Stringtown about fifteen miles northeast of Oroville, Nelson's Point about twenty-five miles north of Downieville, and Gold Lake some twenty miles southeast of Nelson's Point. On or near the North Fork were, among many other mining locations, Long Bar, Big Bar, Cariboo, Rich Bar, Cherokee, Greenville, Crescent Mills, Taylorville and Quincy, the latter in American valley and the seat of justice of Plumas county.

Stringtown was a straggling settlement on the south side of the Middle Fork, consisting of cabins and tents strung like beads or, if the expression be preferred, like pearls on a long string; and hence, seemingly, the name. But the most noted locality, perhaps, on this Fork of the Feather was Nelson's Point, one of the roughest places in California. It consisted of a few houses, piled as it were without form or shape against one another on the sides of the precipices where the spurs of three steep mountains met at the junction of Nelson's creek. Its situation as a sort of center between rich localities made it well known; and as a subordinate place of supply for remoter settlements and especially as a place of carousal and wassail on Sundays for the miners of the rough and rocky regions round about, it became famous in the early times. There is no good reason to suppose that any one mining camp was much worse than many others, or that Nelson's Point ought to have had any special preeminence for vice and wickedness; but it was its fortune to be visited in its callow days by newspaper correspondents, suspiciously familiar with low and vulgar haunts, who pronounced it "one of the most miserable cut-throat looking places within the range of the mining regions." Gold Lake, a

small sheet of water and the head supply of a little tributary of the Middle Fork of the Feather, was the scene of one of the first of those excitements among the early miners, called "rushes," which for a while and until the bubbles burst attracted vast numbers of adventurers with vain and visionary hopes, based upon misrepresentations and falsehoods, of becoming suddenly and immensely rich. It proved to be a barren field so far as mining was concerned; but it will merit attention and particular description further on, when the character of the early mining population and its liability to be carried away by insubstantial and incredible reports come to be considered.

The numerous camps on the North Fork of the Feather river, some of which have been specially named, were all interesting and nearly all very rich. Some were river-bar claims; but most of the larger workings in those regions were by means of shafts and tunnels; and there were a few quartz veins and stamp mills. An account of Rich Bar, which was situated on the East Branch of the North Fork, some ten or fifteen miles northwest of Quincy and in about the center of the group of mines mentioned, may be taken as a representative of them all. The spot appears to have been discovered, or at least was first worked, in July, 1850. A large company of adventurers from Nelson's Point, attracted by vague rumors of rich diggings on the North Feather, reached the place and, upon testing the ground, took out two hundred and fifty-six dollars worth of gold from the first panful of earth worked. A subsequent panful yielded fifteen hundred dollars. Within a few days of the first working, two men dug out thirty-three pounds of gold in eight hours' work; and within two weeks two other men had each taken out six thousand dollars. The other miners were not so fortunate; but all, who worked, did excellently well; and in a very short time there were five hundred men settled on or about the bar, which got its name of Rich Bar from its liberal yield. Many subordinate bars in the same neighborhood were also examined and found rich, particularly Smith's Bar, Indian Bar and Missouri Bar. But the most noted and productive of all the camps in the region was Rich Bar, which continued for years to be an active place.¹

¹ Pioneer Magazine, Vol. I, 222, 223.

A lady, wife of a physician, who lived at Rich Bar with her husband in 1851 and 1852, has furnished, under the non-de-plume of Shirley, a minute and interesting narrative of her adventures and what she saw.¹ The couple started from Bidwell's Bar on mules and, after an exceedingly rough trip, during which they strayed thirty miles out of their way and ran considerable risk of being attacked by Indians, reached their destination about the middle of September, 1851. They stopped at what was called the hotel, the only two-story building in the place. It was built of planks of the roughest description, having two or three glass windows—a luxury unknown in all the other dwellings—and a roof covered with canvas. Nearly the entire front of the establishment was covered with a monstrous canvas sign on which were painted in immense and imposing capital letters the words "The Empire." Upon entering, the first apartment met with was the bar-room, trimmed with crimson calico from the midst of which gleamed a large mirror flanked and set off with rows of decanters, cigar vases and jars of brandied fruit—the whole forming what Shirley called "*a tout ensemble* of dazzling splendor." A table covered with a green cloth, upon which were a pack of monte-cards, a backgammon board and a pile of trashy novels, together with a few uncomfortable-looking benches, completed the furniture of that portion of the apartment constituting the bar-room. The other side did duty as a store and shop, where velveteen and leather, flannel and calico lay indiscriminately mixed up with hams, preserved meats, cans of oysters and groceries.

From the bar-room a flight of four steps ascended to the parlor, which was carpeted with straw matting and contained a looking-glass, a sofa fourteen feet long by a foot and a half wide covered with red calico, a round table with a green cover, six cane-bottom chairs, red calico curtains, a cooking-stove and a rocking-chair. From the parlor another flight of four steps led to a narrow hall in the second story of the house, on each side of which were four bedrooms, eight by ten feet in size, the floors of which were covered with straw matting and the windows of

¹Mrs. L. A. K. Clapp, afterwards for many years a resident of San Francisco.

wooden lattice-work festooned with curtains of the all-pervading crimson calico. Each tiny chamber had a little table covered with oilcloth and a bedstead so heavy that nothing short of a giant's strength could move it. All the floors were so uneven that from one point to another, even in the same room, there was either an ascent or a descent; or the surface was what might be called rolling. The doors were made of slight wooden frames, covered with dark blue cotton drilling and hung on leather hinges. The dining-room and kitchen of the establishment were of the most primitive description or, in other words, on a par with everything else about the place; and yet this was one of the fine houses of the early mining times and there were few better and none more pretentious in any of the remoter mountain towns.

Rich Bar as a town was charmingly fresh and original. It lay in a little valley or gorge eight hundred yards in length by about thirty in width and was hemmed in by lofty hills, almost perpendicular and clothed to their very summits with magnificent fir trees, along whose base flowed or rather plunged the clear and blue-bosomed river. Through the middle of the valley ran the main street, thickly planted with forty residences and tenements, including houses, cabins, hovels and tents, varying in elegance and convenience from the palatial splendors of "The Empire" to the booth of dead boughs covered with old calico shirts. The doctor's office, which was the only one on the river, was so much talked about as something extraordinary for those regions that Shirley's anticipations were roused to the utmost pitch by the accounts given her of it. But when she came to visit the place, she was so overpowered that she sank helplessly upon the bare bench on one side of the building and laughed till she cried. The office consisted of a building ten feet long and not quite so wide. It had no floor except the earth; but a bench composed of two rough planks ran along two of the sides. In one corner at the rear was a sort of nondescript table, on which was ranged the medical library, consisting of half a dozen volumes; and behind it on shelves, which looked like sticks hastily snatched from a wood-pile and nailed up without trimming, was an imposing array of medicines. In front a white canvas window stared

everybody in the face with the information, painted in perfect grenadiers of capitals, only not quite so tall as those of the Empire House, that this was the "Doctor's Office."

Besides Shirley, there appear to have been only three or four other women at Rich Bar. One was the hostess of the Empire House, who was about twenty-five years old, with a complexion tanned to a dark and apparently permanent yellow by her trip across the plains. Upon setting out for California she had left in her old home a nursing babe eight months old, together with two other children; and she now had a two-weeks-old infant, which, during most of the time its mother was engaged cooking for guests and patrons of the house, lay kicking furiously in its champagne-basket cradle and screaming with a six-months-old-baby's power. Another of the women of Rich Bar was usually called "The Indiana Girl" from the name of her father's hotel, though the word girl seemed rather incongruous when applied to so gigantic a piece of humanity. In her account of the charming creature Shirley says she had not yet seen her but she could say with truth that she had heard her. The far-off roll of her mighty voice, booming through two closed doors and a long entry, added considerably to a nervous headache under which Shirley was suffering at the time. The gentle Hoosier damsel wore the thickest kind of miners' boots and was said to have the dainty habit of wiping the dishes of the "Indiana House" on her apron. But she was what the miners called "metal to the backbone," as may be inferred from the fact that when she came to Rich Bar the previous spring she walked all the way through snow five feet deep and at the same time carried fifty pounds of flour on her back. The third woman was the wife of the host of a little log cabin, called the "Miners' House," situated at the entrance of the town. She was as small in comparison as the Indiana girl was large, being of only sixty-eight pounds weight. Though the mother of three children, whom Shirley pronounced pretty, her regular occupation seems to have been tending the bar of the "Miners' House" while her husband was apparently otherwise occupied. Under the circumstances Shirley's prospect for social intercourse with the female population of Rich Bar in 1851 was not brilliant.¹

¹ Pioneer Magazine, vol. I, 43, 91, 174-176, 211, 222.

The number of mining camps in the vast region between the Mokelumne river and the Feather, known as the Northern Mines and which may be described in very general terms as the north-east quadrant of a circle having Sacramento, from which it derived most of its supplies of provisions and goods, as a center and the summit of the Sierra Nevada as its arc, was very great. Those which have been named do not include a tithe of them. Some notion, however, of the characteristics of the discovery and first settlements of all, for there was a broad resemblance between them, may be drawn from the glimpses already furnished of some of the main points of interest. Every one of these old camps, though most of them have long since been abandoned and are now so entirely things of the past as to be almost forgotten, had its special history, containing more or less of romance, and played its part, more or less important, in developing the character of the people of the state. As a rule the first visitors or pioneers of each camp or settlement were restless prospectors, who seemed to be never satisfied with what they had already found but were continually searching for something better. Even if they found good prospects and could without any great difficulty make large sums by steady work, it was seldom that they remained long in one place but would usually, as soon as others began to settle around them, move off into remoter regions. Some of them often made a very large sum in a very short time and then on the first opportunity spent it in a shorter time than it had taken to make it. Some of them—and usually the most forward and noisy—were rough in their action and coarse in their conversation; and hence the multitudes of vulgar and slang names of places they left behind them. One writer, who had a very fair acquaintance with this class of the community in 1851 and at the same time a very ready and profuse flow of language, called them the jackals who scoured the county and searched the rich places for lions in the shape of shrewder and steadier men to step in and reap the main benefit.¹ This, however, was only in a modified sense the case, for hardly any part of the old mining community during the early days remained permanently in any one place. Even the shrewd and steady men

¹ Mountains and Molehills, 210.

moved to a greater or less extent with the movements going on about them; and it was a common observation, until very large investments of capital necessitated permanency of residence, that there was not a mining town in California that did not have an almost entire change of population every three years.¹

¹ Correspondence of Marysville Democrat, — 1858.

CHAPTER IV.

THE SOUTHERN MINES.

THE Southern Mines, instead of Sacramento, had Stockton as their source of supply for provisions and goods and may be said, in the same broad sense that was used in reference to the general shape of the Northern Mines, to have been embraced in a southeastern quadrant with Stockton as its center and the summit of the Sierra as its arc. The dividing line between them and the Northern Mines may be considered, as has been stated, to have been the ridge on the north side of the North Fork of the Mokelumne river; but there was nothing very definite about the line of demarcation and several points along the Cosumnes and its branches were regarded by some as properly belonging to the Southern instead of the Northern Mines. All the rivers of the Southern Mines were affluents of the San Joaquin, as those of the Northern Mines were of the Sacramento, except the Mokelumne and Cosumnes, which emptied into the country of swamps and sloughs about midway between Sacramento and Stockton and distributed their waters indifferently to the one or the other of the main rivers according as the one or the other was at a higher or lower stage of water. In extent of territory, population and yield of gold the Southern Mines were in the early days nearly equal to the Northern Mines; but they deteriorated much more rapidly and, except for quartz veins, became in a few years comparatively exhausted.

The principal rivers flowing through this mining region, besides the Mokelumne, were the Calaveras, the Stanislaus, the Tuolumne, the Merced and that portion of the San Joaquin which is in the mountains. Nearly all these rivers, like those in the Northern Mines, had their respective North, Middle and South Forks; and some of them, also like some of those, had

their Forks of Forks—the poverty in names for these tributary streams being in strange contrast with the superabundance and in many cases distinctive appropriateness of the names of mining camps. While there were many rich places in the Cosumnes region, there were no especially noted points, except perhaps Indian Diggings, though Michigan Bar, Newtown and Grizzly Flat may also be mentioned. Michigan Bar was on the river in the lower foot-hills and resembled Mississippi Bar similarly situated on the lower American river. It was soon worked out. Newtown was near the North Fork of the Cosumnes and some eight or ten miles southeast of Placerville. It, as well as Grizzly Flat, which was eight or ten miles further to the southeast, had some hydraulic as well as quartz mining. The town of Grizzly Flat was small and the quality of the gold found there comparatively poor, being too much mixed with silver and base metal. Off more to the southward, and about twenty-five miles southeast of Placerville, was Indian Diggings, a brisk and lively place where there were almost always several hundred miners at work and sometimes as many as five or six hundred. This spot was apparently the most northerly point on what was known as the great limestone belt, which ran thence southerly, distinctly traceable, to the neighborhood of Columbia and Sonora, a distance of some forty miles. This limestone, which in some places becomes marble, appears to rise in ridges through the slate; and, like limestone formations in general, it has numerous fissures and caves. Several of these caves, though not very extensive, present in their stalactites and stalagmites many objects of great beauty and interest; while the fissures afford subjects of mystery and wonder. At one place, called Slug Gulch, near Indian Diggings, a shaft was sunk through the limestone to what was supposed to be a stratum of boulders and pay-dirt. By some accident a mining ditch was turned into this shaft and, though it was allowed to run for several days there never appeared to be any accumulation of water in the shaft. Nor was any outlet for the water ever discovered. Whether it was drunk up by the thirsty gravels of ancient river beds buried under the more recent strata, or whether, like the river Alph, it sank through "caverns measureless to man, down to a sunless sea," may never be known or

will only be found out when much more extensive explorations shall have been made than any yet attempted.¹

On or near the Mokelumne and its Forks were Drytown, Fiddletown and Volcano; Ione City, Irish Hill, Amador, Sutter Creek and Jackson; Chile Camp, Campo Seco, Butte City, Mokelumne Hill, Independence Flat, Railroad Flat and West Point. Jackson was to a great extent the business center of all the Mokelumne river region. It was first settled in 1849 and derived its name from one of its pioneer miners. In the spring of 1850 it contained only three log houses and seven tents; but from that time it progressed rapidly until in 1854 it had a population of fifteen hundred persons. In the last named year an act was passed by the legislature for the organization of the new county of Amador out of a part of the old county of Calaveras; and the next year the boundaries of the new county were particularly defined and Jackson made its seat of justice, which it has ever since remained. The town is situated at the forks of a small stream, called Jackson creek, some four or five miles north of the Mokelumne river, about forty miles southeast from Sacramento and the same distance northeast from Stockton. It had on its own site and was also surrounded with very rich ground and yielded large amounts of gold; but there was much difficulty encountered from the want of water until supplies were obtained, at first from the branches of Jackson creek and later on, about 1855, by the ditch of the Jackson Water Company, which tapped the Mokelumne river about twenty miles above the town.

Sutter Creek was four or five miles northwest of Jackson and Amador a couple of miles northwest of Sutter Creek. Both these places became in time quite important on account of their quartz leads, being situated at or near the northern extremity of what was known as the famous "Mother Lode," one of the most extraordinary metalliferous veins in the world. There are other lodes, and a number in California, as about Grass Valley and Nevada and other places in the Northern as well as in the Southern Mines, as rich, but none so extensive as this. It is rare for any lode to be traceable for more than a few miles, six or eight

¹ Resources of the Pacific Slope, &c., by J. Ross Browne, New York, 1869, 85; San Francisco Bulletin, September 25, 1857.

is very far, while this has been followed plainly in a southerly direction all the way to Mariposa, a distance of upwards of sixty miles. Its rock is usually a hard and white quartz, rich in very fine particles of gold, which as a rule are invisible to the unassisted eye; and the vein varies in width from a foot to thirty feet and has a general dip of about forty-five degrees eastward. There are, however, in some portions of its course side branches or companion veins, as they are sometimes called, making the total width nearly a hundred feet. Nor is the direction of the lode always in a straight line: on the contrary, though usually found within half a mile of what may be considered its normal course, it is sometimes found as far as two or three miles from it; and there are cases of other lodes entirely distinct, which in some instances approach so close as to be confounded with it. All the streams running down from the mountains, between the Mokelumne on the north and the Merced on the south, cut through or across it, while between the respective rivers it crops out, wide and solid, in the intervening ridges, hills and flats. In the neighborhood of Sutter Creek and Jackson it has been struck at the Oneida mine, the Hayward and the Keystone, three of the richest quartz mines known, each of which has produced its millions; while further south it shows itself on Carson Hill, just north of the Stanislaus river, at the Golden Rule and Raw Hide mines a few miles east of Jamestown, at or near Coulterville, and at Pine Tree and other places near Mariposa—the entire distance between the northern and southern limits being full of rich localities.¹

Drytown, on a little rivulet called Rio Seco or Dry Creek, was some eight or ten miles northwest of Jackson and half way between the Mokelumne and Cosumnes rivers. It derived its name from the creek, which though never absolutely dry became in the summer so attenuated that it had hardly body enough to run; and, like Jackson, it suffered greatly in its early days from drought. The first settlement was made in 1849; but the place was almost immediately found to be so rich that its population rapidly increased and before the end of 1850 it had grown into a considerable town. During the next winter, however, there was

¹ Resources of the Pacific Slope, 14-19, 27-35.

such a scarcity of water that comparatively no gold could be washed; all the transient miners left the locality, and everybody that owned a claim wanted to sell out and move off to a moister region. Fortunately for the spot there were no buyers; and the owners, being unable either to sell or to go on with their mining, found themselves compelled to bring in water from some of the creeks higher up in the foot-hills. The introduction of these streams proved the salvation of the town; the deserters all returned; and Drytown, which in the course of a few years more was like Jackson furnished with a plentiful and unfailing supply of water from the Mokelumne river, became a very prosperous place and the center of a number of thriving camps. Subsequently valuable quartz discoveries were made in its vicinity and many quartz mills erected, which have contributed to its permanency, while most of the camps and towns dependent only on river-bed or gravel deposits have long since been abandoned and scarcely left a "rack" behind.

Volcano, which was situated on Sutter creek, some twelve miles northeast of Jackson and consequently higher up in the mountains, was discovered and settled in 1849 and about the same time as Drytown. It was originally called "Soldiers' Gulch" from the fact that a number of discharged soldiers of Stevenson's regiment of New York volunteers first mined there. Subsequently, on account of its black limestone boulders, conical hills and general appearance of volcanic action and the belief that the place had at some former time been a crater, the name was changed to Volcano.¹ In auriferous wealth it was exceedingly rich and for years yielded large returns. Unlike Drytown, there was rather too much than too little water in the excavations made for mining purposes; and for this reason it became necessary, though a ditch had to be brought in for the supply of the higher grounds, to drain off the superabundant underground streams. In 1852 a wagon road was constructed through it and across the Sierra to Carson valley; and, being thus placed on one of the overland routes and the first town in California reached by immigrants coming that way from the Atlantic states, it became an important place.

Ione City was situated on the same Sutter creek as Volcano; but while Volcano was high up in the mountains and in a rough, broken, precipitous country, Ione City was near the base of the foot-hills and only a few hundred feet above sea-level. There was, so to speak, a regular series of mountain terraces from it up to Volcano; so that the stage trip from the former to the latter through Jackson was a continual climb that made the traveler weary with its lengthened uniformity. Sutter creek, on account of its great and rapid fall, was in seasons of flood a raging torrent, violent enough to bring down the golden grains, that were washed away by or fell into its current higher up in its course, almost to the plains; and for these reasons the bed of the creek and other fluviatile deposits in the neighborhood of Ione were as rich as more elevated points. Several other separate and distinct camps, each famous in its day and within a mile or two of one another, were settled about the same time as Ione. One of them about two miles to the north of it was called Muletown and another about two miles further north was called Irish Hill. The original names proposed for Ione itself were first "Bedbug" and then "Freezeout;" and it is probable that among the rough miners one or the other of these vulgar appellations would have been fastened on it, had it not been for some susceptible soul, to fame unknown, who in his isolation had become wild over Bulwer-Lytton's "Last Days of Pompeii" and in his enthusiasm successfully insisted on the adoption of the name of the heroine of that novel.

But of all the towns along the Mokelumne river, Mokelumne Hill was, perhaps, the richest and most famous. It was situated on a flat between hills, about half a mile south of the river, eight hundred feet above its level, and five miles south of Jackson. Like most of the other towns in that section of country, it was first settled in 1849 by discharged soldiers of Stevenson's regiment. In the autumn of that year a company of seven Frenchmen commenced washing in one of the adjoining gulches and in the course of a few weeks dug out enough gold to so enrich them that they returned to their native country apparently satisfied. About the same time the hill got the reputation of being good winter diggings; and a number of Americans settled there

permanently. In 1851 a new company of Frenchmen discovered an extraordinarily rich deposit in one of the neighboring hills which was thereupon christened "French Hill." The report of this discovery, added to the previous popularity of the place, attracted a crowd of several thousand miners; and in the general rush and scramble to secure claims a dispute arose between the Frenchmen and the Americans, which led to a quarrel and fight. Though few were engaged in the commencement of the fray, the disposition of the old miners to help their countrymen and friends served before long to involve in the controversy nearly the entire population. For a time it almost seemed as if there was to be a regular war. Messengers were sent out in all directions by the respective parties for recruits and arms; and as soon as they could come together two small armies assembled and camped opposite each other. There is no telling what might have happened if the opposing forces had come to bloodshed; but fortunately there were cool heads among the Frenchmen, at whose instance the tricolored flag was finally hauled down; some concessions were made on both sides; and the hostile hosts dispersed. After the restoration of peace, other rich discoveries were made; more miners came in; good fortune attended almost all the diggings; and the town acquired a population of between three and four thousand inhabitants. In 1853 the place and its neighboring mines were furnished with an abundant supply of water from the higher regions above; and thereafter the town continued to be one of the most active and bustling in the mining regions. There was hardly a ravine that was not worked over and over until the hillsides in every direction were whitened with hydraulic and tunnel tailings. At length, however, all but the more expensive and extensive kinds of mining were abandoned to Chinamen, who, after paying well for their claims and to secure immunity from molestation, patiently toiled after the old miners and reashed, perhaps for the fourth or fifth time, the already comparatively exhausted earth. There were also a few Digger Indian women who from time to time, with their little crow-bars, horn scrapers and tin pans, worked in the old placers and managed to collect a few dollars. But even these poor workings at last almost entirely ceased; and little or nothing is left of them but the memory.

About twelve miles in a direct line eastward of Mokelumne Hill was West Point, a spot noted for its "pockets" of rich quartz; and five or six miles south of West Point were Independence and Railroad Flats, which were famous for the manner in which their miners defended themselves against the people of Mokelumne Hill. The great difficulty with almost all the mines in the early days and particularly with those in the lower regions of the mountains was the want of water; and for the purpose of supplying it a number of ditches were constructed. Among others there was a ditch, which took water out of the South Fork of the Mokelumne river some distance below Independence Flat and carried it to Mokelumne Hill. When afterwards Railroad and Independence Flats were found to contain valuable deposits, a second ditch was built on the same stream for the purpose of supplying the necessary pipes and sluice boxes in those places. This new ditch, though it returned all the water it took out of the stream into it again and above the dam of the Mokelumne Hill ditch, the quantity of whose water was therefore not materially diminished, still returned it so full of sediment and mud as to be seriously deteriorated in value. The Mokelumne Hill people complained of this damage done to the water of the stream and, having the best right by prior appropriation, commenced a suit and obtained an injunction against the further use of the water by the upper ditch. To enforce the injunction and accomplish its purposes, the sheriff of the county was sent with a posse of assistants from Mokelumne Hill to break down the upper dam. But as soon as the officer made his appearance in the neighborhood an anvil was fired by way of alarm; and several hundred miners from Independence and Railroad Flats armed themselves, turned out in mass, followed him to the dam, stopped his proceedings, repaired the break he had made, and invited him to return at once to Mokelumne Hill. There was no attempt to injure the officer or any of his assistants; but they were informed, in a tone there was no mistaking and which carried conviction with it, that the neighborhood was the unhealthiest in California for anybody that attempted to disturb that dam. There was in all this a plain contempt of court and resistance of its mandate; but in those days a few hundred

miners, backed by the public opinion of the neighborhood, were stronger than any of the courts—and Mokelumne Hill was obliged to use dirty water notwithstanding the judgment in its favor.¹

The next river to the south was the Calaveras, and among the towns on or near it were Jenny Lind, Taylor's Bar, San Andreas, El Dorado, Cave City and Calaveritas. Jenny Lind and Taylor's Bar in the foot-hills had both rich placer deposits but they were soon exhausted. El Dorado, about eight miles east of San Andreas, was a rich flat of auriferous gravel a hundred feet deep, several hundred feet above the present river, and evidently the bed of some river of a primeval age. A few miles east of El Dorado was Cave City, which was on the great auriferous limestone belt, before mentioned as running from Indian Diggings southward to Columbia, and took its name from a large cave found there. All these places in their day yielded well, except Calaveritas, some four or five miles southeast of San Andreas, which, on the contrary, presented the example of a conspicuous failure. A very complete mill, costing over a hundred thousand dollars, was erected there by a company of Frenchmen; but before it crushed an ounce of quartz, the supposed vein, upon which it was built, was found to be no vein at all; and no vein could be found in the vicinity. Under the circumstances the mill had to be torn down and moved away, and Calaveritas was relegated to its original solitude. Of all the places on or near the Calaveras river, however, San Andreas was the most noted and the most interesting. Situated about ten miles south of Mokelumne Hill, between the forks of the Calaveras river and over an exceedingly rich deposit of gravel and cement, which had been left there by an ancient Pactolus, something like but richer than the deposit at El Dorado, it appears to have been settled in 1850 and for years to have afforded to a great multitude of miners large amounts of gold. In 1850, when Calaveras county was first defined and was much larger than it is at present, embracing as it did what are now the counties of Amador, Mono and Alpine, the seat of justice was declared to be at a place called Pleasant Valley. Two months afterwards

¹ San Francisco Bulletin, October 15, 1857.

a new act was passed by the legislature fixing it at Double Springs. In 1852 it was fixed at Mokelumne Hill; and in 1863, after the other counties named had been cut off from Calaveras, it was removed to San Andreas where it has since remained.¹

South of the Calaveras was the Stanislaus river, upon or near which were situated Tuttletown, Jackass Gulch, Carson's, Angel's Camp, Murphy's, Douglas Flat, Vallecito and Columbia. The first named of these places, some twenty miles southeast of San Andreas, was originally known as Mormon Gulch on account of the fact that a company of Mormons commenced mining there in the spring of 1848. Towards the end of the summer of the same year an individual, called Judge A. A. H. Tuttle, settled at the place and built a log house, which became the nucleus of the village that grew into Tuttletown. At first, like many other places in that section of country and for that matter like many throughout the mining regions of the state, it was settled only on account of its placer deposits; but in the course of years rich quartz veins were discovered in the neighborhood; permanent investments were made, and Tuttletown, instead of being abandoned and left a mere wreck of its former self, continued to be an active mining town.² About the same time in the summer of 1848 that Tuttletown was founded, a jackass belonging to one of the miners of that neighborhood strayed off. His owner, in searching for him, struck Jackass Gulch, a mile or two up the river and near what is now Robinson's Ferry, which upon examination proved to be immensely rich. For a time it was looked upon as the richest place discovered in California. A Major Means took out of a claim ten feet square the sum of ten thousand dollars and, while doing so, came upon a quartz lead which for a long time is said to have yielded two-thirds gold. A Mr. Carrington found another quartz lead, which yielded from one hundred to three hundred dollars per day by simply pounding the rock in an iron mortar. Still another vein was discovered by a negro known as Dick, the richness of which was so great

¹ Resources of the Pacific Slope, 50-71; Stats. 1850, 63, 262; Hittell's General Laws, 1145.

² A History of Tuolumne County, San Francisco, 1882, 3; San Francisco Bulletin, October, 1857.

that it proved the ruin of its discoverer. Dick first sold out several shares and then went to work on what remained; and the outcome was that in a comparatively short period he left the place, carrying about one hundred thousand dollars, for Sacramento with the intention of having what he called a good time. It did not require long at that place for one in his circumstances to lose all his money; and then, after standing for a short while the degradation of being kicked and cuffed on every side as an impecunious loafer, he put an end to his misery by cutting his throat.¹

Carson's, which seems to have included both Carson Hill and Carson's creek, was a mining locality a few miles north of the Stanislaus river at Robinson's Ferry. The extraordinary richness of the creek was first discovered in August, 1848, by James H. Carson, a sergeant of Stevenson's regiment, who was at the time on furlough and had gone off on a prospecting expedition southward from the Mokelumne river. He was in company with a Mr. Angel. They first struck Angel's and then Carson's creek, where they took out a large amount of gold. Later in the same year he entered into a partnership with one Dr. Roberts to trade between Stockton and Mariposa; but they had barely got started in making money when Roberts ran away with the partnership funds, leaving Carson three thousand dollars in debt. Notwithstanding his losses, he continued actively at work, but perhaps exposed himself too much and the next spring was attacked by severe rheumatism which laid him up for eighteen months. In January, 1852, a report having been spread about of his death, his friend Benjamin P. Kooser administered on his estate. While engaged in making distribution, Kooser received a letter from Carson, purporting to be dated in Spirit Land, expressing among other things his satisfaction that so far as he could learn from newspaper reports no one had rejoiced in "Old Jim's" taking off and proposing to thrash the man who had given information of his death. Subsequently in the same year, upon recovering his health sufficiently to get around again, he was tendered a nomination to the legislature by the Whigs of Calaveras but declined. The next year he was nominated to the legislature by the Demo-

¹History of Tuolumne County, 4.

crats and elected by a large majority. But the election was scarcely over when he was again attacked by the rheumatism and with such violence that his shattered constitution could not successfully resist it; and he died.

The quantities of placer gold taken out at Carson's creek were very large; but the richest part of the locality was a quartz lode on the summit of Carson Hill. This, which proved to be a part of the famous mother lode, was discovered in 1850 by a man named Hance. He had or took in with him six partners, one of whom was named Morgan; and it was from him that the opening got the name of the Morgan mine. It appeared to be rich beyond parallel. Much of the gold was taken out by pounding the rock in mortars and not unfrequently there were so many bands or strings of gold running through the quartz that cold chisels had to be used to cut them apart. On one occasion one hundred and ten thousand dollars worth of gold was thrown down at a single blast. The fame of the place spread to all parts of the state; and the town of Melones on the southerly side of Carson hill became one of the largest mining camps in the country, acquiring a population varying from three thousand to five thousand persons. It is said that the travel to and from it was so great that ten thousand dollars were taken in at Robinson's Ferry, two miles to the south, for ferriage over the Stanislaus river in six weeks. In less than two years, according to report, nearly three million dollars worth of gold was extracted by the owners and large sums in addition were stolen by the miners, most of whom were Mexicans. So exceedingly rich in fact was the mine that it attracted the attention of a band of ruffians under the lead of Billy Mulligan, who took forcible possession and drove the owners off by violence. A suit to eject these men was commenced and in 1853 they were finally dispossessed. Subsequently an attempt was made by Morgan to sell the mine; but the owners got to disputing among themselves, and the result was a long and costly litigation, lasting for near a score of years, while the mine lay comparatively idle. It can not be but that immense quantities of precious metal in Carson hill still await and will richly repay enterprise and skill in the future.¹

¹ Resources of the Pacific Slope, 51, 59, 62.

Angel's Camp on Angel's creek, one of the discoveries of James H. Carson and Mr. Angel as above stated, was also a famous place in the early years. It was situated some three or four miles north of Carson's and about ten miles southeast of San Andreas. Exceedingly rich diggings were found in the main creek and likewise in the smaller gulches and flats of the vicinity. At one spot from two hundred square feet of surface earth two brothers named Winter in 1852 washed out in common sluices nine thousand dollars worth of gold; and upon sinking lower down they struck a kind of limestone, containing much gold mixed with sulphurets, which on being crushed and worked like quartz yielded from one hundred and fifty to two hundred dollars per ton. Soon after striking this auriferous lead it was reported that a specimen from it had been assayed in London and found to be worth thirty-five thousand dollars per ton, and from that time on it became the practice in the neighborhood to lay aside the best specimens in chests under lock and key with the idea of eventually taking them to England or France for reduction. It was no uncommon thing in those days for enthusiastic old miners of these parts to keep great chests of rocks stowed away in their tents or cabins, which on favorable occasions they would drag forth and display, declaring them to be worth at the rate of twenty or thirty thousand dollars a ton. Upon these rocks, brushing off the dust and applying their magnifying glasses, they would build up magnificent air-castles of visits to Europe and coming back with their chests full of English sovereigns or French napoleons. And for the time they were as rich and much happier than if they had actually realized.¹

Murphy's Camp or Murphy's, as it was usually known, was situated on the same little stream as Angel's Camp and some eight or ten miles northeast of it. Most of the work done there was digging up the bed of the creek or extracting pay dirt from between large limestone boulders from twenty to thirty feet below the surface. Very large spaces were thus excavated and the dirt raised in buckets by means of a derrick with drum and horse power. As the buckets were raised out of the excavations, they were swung around by the derrick and emptied

¹San Francisco Bulletin, October 21, 1857.

into the sluice where the dirt was washed. The process of hoisting and swinging the buckets was something like that of unloading coal from the hold of a vessel; but the apparatus was so arranged that the buckets were constantly going and the horse never stopped his round while his stint lasted. The disadvantage of having thus to raise the dirt was finally overcome, as at Volcano, by cutting a channel some thirty feet in depth and lower than the bed-rock, and thereby rendering available a large amount of ground that would otherwise have been of little use. The sluices now were placed below the dirt to be washed, which was shoveled in without being raised, and the tailings were all run off through the cut, which also drained the washings. The main supply of water in 1857 came in a ditch and flume from a few miles west of the famous grove of sequoias known as the Calaveras Big Trees.

Douglas Flat, an exceedingly rich location of the limestone belt, was a mile or two south of Murphy's. Some five miles south of it and five or six miles southeast of Angel's Camp was Vallecito, also a very rich spot on the Stanislaus river. But the largest and perhaps most interesting of all the towns on the Stanislaus and its tributaries was Columbia, some five or six miles southeast of Vallecito and about the same distance north of Sonora. Gold was first discovered at Columbia in March, 1850, and it became almost at once celebrated for the extent and richness of its deposits. There is some question whether it was discovered by Americans or Mexicans. Though at first sometimes called Hildreth's Digging from Thaddeus and George Hildreth, the supposed discoverers, and sometimes American Camp from their nationality, it seems certain that a company of Mexicans was working there side by side with, and nearly if not quite as early as, the Americans. By the middle of the following April it is said that there were at least six thousand persons in the neighborhood, which however embraced within a circuit of a few miles a number of very rich and afterwards famous places, including Gold Spring, Pine Log, Springfield, Shaw's Flat and Sawmill Flat. The antagonism between the Americans and foreigners had the effect of greatly reducing the population for a time; but, notwithstanding its ups

and downs, Columbia became one of the liveliest and largest of the mountain towns. As an evidence of this it may be mentioned that at one time, soon after its foundation, it contained one hundred and forty-three faro banks in active operation and had a gambling capital aggregating between a million and a million and a half of dollars.¹

Gold Spring was a mile or two northwest, and Springfield three or four miles south, of Columbia; and, like Shaw's Flat and Sawmill Flat, they were both on the limestone belt. Both got their names from remarkable springs, supposed to be the outlets of subterranean streams flowing through limestone fissures. One of these streams was supposed to run under Knapp's ranch just east of Columbia. There was a hole in the limestone there, down which adventurers climbed for a distance of one hundred and fifty feet and were then let down with ropes one hundred feet further when they came to a stream of clear water four feet wide and twelve feet deep. There were several other holes of this kind near Columbia, one of which led into a subterranean channel that had its outlet below Jamestown and about eight miles distant. It was on account of the constant supply of water from these springs or outlets of subterranean rivers that both Gold Spring and Springfield were early settled. Springfield particularly, which had two such springs, was exceedingly popular and at one time had over six hundred voters. One of the very early residents and founders of the place was an enterprising Mexican lady, named Doña Josefa Valmaseda. She had formerly lived at Guaymas in Sonora and appears to have taken the part of the Americans in the Mexican war, or was at least favorably disposed towards them. It is said that Guaymas was in fact taken on information furnished by her. Whether this was so or not, she was known to be a friend of the Americans and on that account incurred the hostility of the Mexican government; and, when the Americans evacuated Guaymas at the end of the war, she was obliged to seek safety in one of their men-of-war and abandon her property, which was afterwards confiscated. She proceeded to San Francisco and subsequently made her way to Springfield where

¹ History of Tuolumne County, 23, 99.

she hired a number of her countrymen and did a thriving business. In 1850 and 1851, before water was brought down in large quantities by ditches and flumes from the higher regions and supplied the entire country at Columbia and the wonderful cluster of rich localities around it, the miners were accustomed to carry the auriferous dirt in carts from various places not too far distant and wash it out at Springfield. They would usually make from ten to twenty dollars per day per man. There were often as many as one hundred and fifty carts running at the same time; and there were instances in which a single cart load of dirt paid as high as a thousand dollars.¹

The town of Columbia and its surroundings were, however, so near to Sonora, the largest and most famous center of the Southern Mines, which was just over the ridge dividing the valley of the Stanislaus from that of the Tuolumne river, that they may almost be considered as portions of one and the same settlement; and much that is said of one will also apply to the other. Both being large, important and interesting towns and about the same distance apart as Grass Valley and Nevada, they may not inappropriately be called the double stars of the Southern Mines, as those were of the Northern Mines. There were several other points of resemblance, among which was the main fact that both were rich not only in placer but also in quartz mining, being situated at points where extensive gravel deposits and quartz lodes came together, so to speak. Though the Sonoran and Columbian mines have not altogether yielded so much nor held out so well as those of Grass Valley and Nevada, they have perhaps yielded more at a time and in larger specimens. Sonora and especially Columbia has been noted for the number and size of its nuggets.

The chief towns on or near the Tuolumne river, were Big Oak Flat, Chinese Camp, Jacksonville, Montezuma, Poverty Hill, Jamestown, Algerine, Soulsbyville and particularly Sonora. The first settlement in the neighborhood and in fact the first settlement in all that section of country was made in the early summer of 1848 by a party of miners, most of whom came from

¹ Resources of the Pacific Slope, 37, 38; History of Tuolumne County, 27, 28.

Philadelphia, under the leadership of the Rev. James Woods. Whatever may have been the qualifications of this gentleman as a spiritual guide, he was certainly a success as a secular explorer and pathfinder and safely led those who placed themselves under his conduct to a land overflowing with treasures. They settled on a comparatively small tributary of the Tuolumne river running southerly from the neighborhood of Columbia, to which in honor of their leader they gave the name of Wood's creek. The spot where they settled they called Wood's Crossing and, upon digging into the sand and gravel of the stream, their success in collecting gold was phenomenal. It was probably on account of this success that the next party that came along, and which proved to be a company of Mexicans from Sonora, instead of passing beyond Wood's creek, only pushed higher up the stream and located the famous dry diggings, that were first known as Sonoranian Camp and afterwards as Sonora. It is three or four miles south of Columbia and about fifty miles directly east of Stockton; and, on account of its situation on slate rock containing auriferous quartz veins just below the auriferous limestone belt already mentioned, it was exceedingly rich.¹

In the early part of 1849 the travel from Stockton to Sonora was so continuous that the camp fires along the route were near enough together to show the traveler his way even at night. And the yield of gold—the magnet that attracted all this travel—was so plentiful that no attempt to accurately weigh or measure it was made: on the contrary a pinch, or so much as could be held between the thumb and finger, was considered and called a dollar, while a teaspoonful passed for an ounce, a wineglassful for a hundred dollars, and a tumblerful for a thousand dollars. This state of affairs becoming known, the rush kept up until, before the end of the year, Sonora's population reached five thousand; and on Sunday, when the miners from surrounding flats and gulches crowded in for the purpose of purchasing their supplies, getting their mail, or varying the monotony of the week by making the round of the saloons and gaming tables, it sometimes went up to as high as ten thousand. Rough as the early

¹ History of Tuolumne County, I, 2.

population was, it contained many men of intellectual vigor and strength of character, who made their mark in the development and progress of the state, among whom may be mentioned J. M. Jones, Benjamin F. Moore, Oliver M. Wozencraft and Benjamin S. Lippencott, members of the constitutional convention of 1849, and Charles M. Creaner, Isaac S. K. Ogier, James W. Coffroth and Leander Quint, prominent judges and lawyers. Among a people containing such men, though there may have been some excesses and irregularities, it was not unnatural for a system of order and law to crystallize; and accordingly a sort of town organization was agreed upon and put into effect in the autumn of 1849, a number of months before there was any statute for it. The moving cause of this organization was to provide a hospital for the sick, as it was found that many of the miners, on account of their too constant diet on salted meat, were more or less afflicted with the scurvy. It is said that in some of the early camps it was the practice to bury persons suffering from this disease in the earth, leaving only their heads exposed, and that sometimes whole rows of men were thus planted out together. But the Sonora Samaritans, instead of resorting to that unusual species of therapeutics, took the safer and more promising plan of providing comfortable quarters for their patients, hiring a steward and nurse at eight dollars per day each to wait on them, and purchasing for their use lime juice at five dollars per bottle, potatoes at from one dollar to one dollar and a half per pound, and other vegetable remedies in proportion.¹

The same disposition to conduct affairs in an orderly manner, manifested by the organization just referred to and which was characteristic of the American miners throughout the country, as will be shown more fully in another connection, was exhibited still more forcibly at this largest and most heterogeneous conglomeration of human beings in the Southern Mines a few weeks subsequently. Sonora, like all other hastily erected mining towns, being built chiefly of wood, which after an exposure during the summer months to an unclouded sun became very dry and combustible, about the middle of November, 1849, suffered a destructive fire, the first of a long series. The loss of property

¹ History of Tuolumne County, 7, 8, 11, 12, 17, 18, 21.

from the flames was severe; but that from theft, for there were bad characters as well as good at Sonora, would have been much more so, had it not been for Charles Bassett, one of the earliest American settlers, who on the spur of the moment and apparently while the flames were raging organized an extempore police force of ex-soldiers of Stevenson's regiment who happened to be present. Being still in their military uniform and having muskets, they were stationed by Bassett on the outskirts of the fire and took charge of all the property that was saved, without suffering a single article to be removed until after the confusion was over. By this means order was maintained, theft prevented, and property preserved for its owners; and the good effect of Bassett's assumption of police power, though in one sense arbitrary and unwarranted, being apparent to the better class of citizens, he was at once sustained and his proceedings sanctioned by public opinion.¹

On February 18, 1850, when the first act dividing the state into counties was passed, the old Sonoranian Camp, which was then made and has ever since remained the seat of justice of Tuolumne county, was called the town of Stewart; but two months afterwards a new act was passed by the legislature by which the name was changed to Sonora.² On June 1, 1850, the first term of the court of sessions of the county was held there. On July 4, 1850, appeared the first number of the Sonora Herald, the pioneer newspaper of the mines. The first seven numbers of this journal were printed on paper nine by thirteen inches; the eighth was enlarged to twelve by seventeen inches; and on one or more occasions, for want of something better, wrapping paper had to be used. It was published weekly and the subscription price was twenty dollars a year or fifty cents per single copy. Its first press was the old one that had been used for the Californian at Monterey; and, following the example of the Californian, it was not unfrequent for a column or two of it to appear in Spanish, and sometimes there was something in French. On May 26, 1851, the common council, provided for by an act of the legislature of May 1, 1851, held its first meeting and in the course

¹ History of Tuolumne County, 20.

² Stats. 1850, 63, 263.

of a few weeks passed several significant ordinances, which may be taken as indications of the condition of affairs in the Southern Mines. One was a prohibition, under penalties of fine and imprisonment, against "French monte, three-card game, loop or string game, thimbles or lottery, Chinese puzzle or lock game, or any game having in its tendency deception or fraud," while a second one imposed a license of fifty cents per day "for every faro bank, monte bank, roulette or other gaming table or game of chance." A third ordinance provided that dancing saloons should pay a license of eighty dollars per month and repealed all previous resolutions closing such houses at midnight; and a fourth prohibited all exhibitions of "model artists." In the same month of May, 1851, the Sonora Herald announced as a surprising and altogether extraordinary fact that not a single case of murder or felonious crime had occurred in Sonora for a fortnight.¹

The history of Sonora, of which a few of the early items have thus been given, was exceedingly interesting in all its particulars; but not more so, perhaps, than that of other mining towns of California and particularly of those in the same neighborhood, which grew up under, or were subject to, the same kind of influences. It, as well as its neighbor Columbia for instance, and in fact a great many of the pioneer settlements in California, suffered very seriously in its early growth and prospects from the narrow-minded and short-sighted legislation of 1850, that attempted to impose a tax of twenty dollars per month upon every foreign miner. The almost immediate effect was, by driving the better classes of foreigners out of the country and scattering the worst classes into remote and secluded places, to nearly depopulate the towns and thus entail enormous losses upon everybody engaged in business, who relied upon population for a return upon capital invested. A very curious and anomalous loss, originating remotely from the same cause, happened to Charles Bassett, the organizer of the pioneer police squad before mentioned. He was at the time engaged in business at Sonora, having a store, a restaurant, a butcher shop, and a dairy stand at which he sold milk at about a dollar a pint. When the excite-

¹ History of Tuolumne County, 35, 37, 74, 83.

ment about the foreign miners' tax was at its height, and there was talk of resistance and forcible reprisals against the Americans, it was rumored at Columbia that an uprising has occurred at Sonora, that Bassett had been seized, and that he had been or was about to be murdered. Such being the case, a Frenchman, named Rochette, one of Bassett's friends, subsequently a clown in one of the circuses that traveled through the country, hastily organized a company of armed men and carrying the American flag at the head of the column marched over to Sonora to rescue Bassett or avenge his death. Arrived there and finding Bassett in good health and unmolested, the warlike crowd pounced upon his store, his restaurant, his butcher shop and his dairy stand and literally ate and drank him out of house and home.¹

Fifteen or twenty miles south of Sonora was Big Oak Flat. This place was so named on account of an enormous oak tree growing there and, being on one of the main traveled routes to Yosemite valley, it was subsequently often spoken of and widely known throughout the country. It was specially interesting for another reason connected with Yosemite, though not so generally known, and this was that it was first located and diggings opened there by James D. Savage, who afterwards discovered the famous valley. The auriferous ground at Big Oak Flat consisted of a bed of gravel from two to twenty feet deep on a bed-rock of granite. When Savage started mining there in 1849 he employed a large number of Indians of the neighborhood, for whose labor he paid in blankets and provisions and whose interests he assumed to protect against the encroachments of the whites. Savage was one of the party who settled with the Rev. James Woods at Woods' Crossing in 1848. He soon developed a facility for dealing with the Indians and contracted intimate alliances with them as well in a domestic as in a business point of view. While he was thus carrying on an exceedingly lucrative trade as an employer and supplier of a large number of the Indians at Big Oak Flat, a quarrel arose at the rancheria between a Texan named Rose and Lotario, the chief "capitanejo" of the aborigines. In a very few minutes, Rose getting warmed up stabbed and killed Lotario, whereupon the Indians shot Rose to death with

¹ History of Tuolumne County, 25-29.

their arrows. The whites of the neighborhood, upon hearing of Rose's death, without inquiring into the causes which led to it, rushed to arms, attacked the Indians and killed a number of them. The result was such strained relations between the whites and natives as to threaten a wide-spread Indian war; but Savage managed after considerable negotiation to pacify the Indians; and most of them seem to have moved off with him to a point higher up in the mountains where for a time at least there was not much danger of interference from the whites.¹

Chinese Camp, so named from the Chinese who settled there, was eight or ten miles south of Sonora. It was a placer mining town. So likewise were Montezuma, Poverty Hill and Algerine lying between the two places and only a couple of miles apart. A few miles south of Chinese Camp, about twelve south of Sonora and near the junction of Woods' creek with the Tuolumne river was Jacksonville, which with its neighborhood was famous for attempts, generally unsuccessful, to turn the course of the river. In the attempt of 1849 a large canal, intended to divert the course of the stream and drain its bed, was dug at Hawkins' Bar, just below Jacksonville; but the winter and spring floods drove the miners off and destroyed their work. There was similar experience at Stevens' Bar, Indian Bar, Texas Bar, Morgan's Bar, Don Pedro's Bar, Rogers' Bar, Swett's Bar and various other bars along the river. But the largest and most expensive of these works, perhaps, was that at Jacksonville, where in the early part of 1850 a stone dam was thrown across the Tuolumne and a canal dug twenty-three hundred and eighty feet long; but just about the time of its completion a freshet occurred, which swept everything away with it. The miners engaged in the work, upon seeing their labor thus destroyed, constructed a wing dam in the river and for a while took out over a thousand dollars per day; and the next year they built a dam of logs and for a number of years thereafter carried on remunerative operations. It was a remarkable characteristic of the miners and the times, indicative of the faith and confidence felt in the richness of the mining grounds, that hardly any disaster entirely discouraged the adventurers; but they seemed to accept disappointment

¹Resources of the Pacific Slope, 38; History of Tuolumne County, 54, 55.

as in the regular order of events and would not let disheartenment take hold of them. It was only when the placers became comparatively exhausted and the average yield too small to justify further labor that the apparently extraordinary vigor of the early days slackened and enterprise turned into other channels.¹

In August, 1848, very soon after the settlement of Woods' Crossing and Sonora, George F. James, commonly called Col. James, located on Woods' creek four miles southwest of Sonora. He entered into extensive mining operations at that point, in the course of which a village was founded which got the name of Jamestown. The auriferous deposits in the vicinity were extraordinarily rich—in fact it is said that more gold was taken out of Woods' creek than from any other stream of its size in California. And almost equally rich and famous were two of its branches, known one as Sullivan's creek and the other as Curtis' creek. On account of the great mineral wealth of the region, many miners congregated in the different camps and villages of the vicinity, and among them many Mexicans, a large number of whom settled at Jamestown. In those days, so soon after the Mexican war, while the prejudices in the popular mind against the Mexicans were much more violent than at present, there were frequent disputes and difficulties between them and the Americans, which sometimes led to scenes of riot and bloodshed. The inevitable result was that the weaker party had to give way; and this weaker party was the Mexicans. The few who were not driven off by force or the apprehension of force left on account of the unjust and oppressive operation of the statute imposing the foreign miners' tax already referred to. These troubles, which disturbed the early days of Jamestown, were scarcely over when they were succeeded by quarrels between Col. James on the one side and the people of the village in general on the other. It appears that James was none too scrupulous and was besides disposed to carry things with a high hand; but, be this as it may, his enterprises all failed and he incurred the ill-will of his neighbors to such an extent that when he left the place, which bad luck obliged him to do, they out of

¹Resources of the Pacific Slope, 38; History of Tuolumne County, 51-53.

revenge changed the name of the place from Jamestown to American Camp. It is probable that the new name was in part intended to commemorate the former triumph over foreigners; but, if so, even that feature was not sufficient to save it; and not long afterwards, when old enmities began to be forgotten, the original name of Jamestown was restored and, though the place now amounts to little or nothing as a town, has survived to this day.¹

Soulsbyville, about eight miles east of Sonora, was on what appeared to be a lode of quartz entirely independent of the mother lode. It ran in a northerly and southerly direction and was bluish in color. Though much mixed with ores of other metals and much distorted and broken by slides and slips, it was very rich. The chief business of those who worked it was to hunt the lode for the reason that faults were frequent and the rocks in general were so irregular that it was difficult to find any reliable guide to follow in attempting to pursue the vein. The displacements were in many places from five to ten feet in extent, while the rock to be penetrated in the search was hard granite, very difficult and expensive to cut through. There were also several dikes of trap which interfered with the lode and still further confused the miners by complicating their problem. Under the circumstances it was found that the only safe way of working the mine was by what was known as the contract system. According to this plan, sealed proposals were invited at regular times to do certain specified mining work, such as sinking shafts, running drifts, getting out quartz or delivering it at the mill; and the contracts were awarded to the bidders who offered to do the labor on the most satisfactory terms. The annual yield for a number of years was over a hundred thousand dollars.²

South of the Tuolumne was the Merced river, which in its upper course, at an elevation of about five thousand feet above the level of the sea and more than half that distance above the usual auriferous deposits, flowed through and in part at least formed the famous Yosemite valley and in its lower course, just

¹ History of Tuolumne County, 3.

² Resources of the Pacific Slope, 45, 46.

above the foot-hills, skirted the celebrated "Las Mariposas"—the Mariposa estate or Fremont grant as it was sometimes called. The origin of this estate, which was represented by its owner and until the decadence of the mines was believed to be one of the most valuable bodies of land belonging to a single individual in the world, was a grant of ten square leagues or upwards of forty-four thousand three hundred and eighty-six acres of land by the Mexican governor, Manuel Micheltorena, to ex-governor Juan Bautista Alvarado on February 29, 1844. At the date of the grant nothing was known or dreamed of gold or other mines in that part of the country. On the contrary Alvarado in his petition only asked for land to pasture cattle on, and Michelto-reна granted him for that purpose ten leagues of the extensive region lying north of the San Joaquin river and within the limits of the Sierra Nevada mountains and the Chowchilla and Merced rivers. This large tract being then a wilderness and in possession of hostile Indians, Alvarado never made any attempt to locate or occupy the land; and afterwards on February 10, 1847, he conveyed it to Fremont for a consideration of three thousand dollars. Subsequently the grant was confirmed by the United States authorities and a survey ordered in the form and divisions prescribed by law for surveys in California, embracing the entire grant in one tract.¹ When the survey came to be made, Fremont, who had previously wanted the grant to be so located as to take in a long strip of the agricultural land of the San Joaquin valley on each side of the Mariposa river, swung it around in such a manner as to locate it in the auriferous mountain regions and embrace not only the famous Pine Tree and Josephine mines but a large number of others which had been in the quiet possession of miners for years. In this manner he managed to secure title to large amounts of property in which the miners, relying upon the fact that he claimed other land, had invested their money. When it became known that they had lost their investments and that Fremont had succeeded in procuring decisions not only that the lands were his but also that all the gold they contained likewise belonged to him, their indignation against him knew no bounds.

¹ *Fremont vs. The United States*, 17 Howard's Supreme Court Reports, 542.

Afterwards, when Fremont began to enforce his judgments and to turn out of possession the miners, who had redeemed the wilderness and made it to blossom with improvements, the popular feeling was so strong that many of the miners refused to leave and defied the officers of the law. This was about the year 1859. In several cases hasty fortifications were erected; barricades were thrown across the mouths of tunnels; there were besiegers and besieged; attacks and defenses took place; the fortunes of war inclined sometimes on one side and sometimes on the other; and a few men lost their lives. But finally Fremont got hold of all the property and the miners, who were turned out, went over to the vast army of his evil-wishers. As affairs evolved, the Mariposa estate in the hands of Fremont never amounted to much; the advantages he derived bore no proportion to the obloquy he incurred; instead of being enriched he soon found himself obliged to sell; and in the course of a few years, instead of being one of the wealthiest men of the country, he was financially one of the poorest.

The Mariposa grant, as finally located, was of an irregular figure having its northern limit on the Merced river and its southern at the town of Bridgeport. Its longest diameter was from northwest to southeast and in length about seventeen miles, while its average width east and west was about five miles. It included the towns of Mariposa, Bridgeport, Guadalupe, Arkansas Flat, Agua Fria, Princeton, Mount Ophir and Bear Valley. Mariposa, the seat of justice of Mariposa county, was about eighty miles southeast from Stockton and near the southeastern corner of the Mariposa estate. There was a quartz lode at that point, which was celebrated for the extraordinary richness of its pockets of massive gold. The Pine Tree and Josephine mines, which were contiguous, were on a mountain-side some sixteen hundred feet above the level of the Merced river and thirteen miles northwest of Mariposa. They were on the famous mother lode and very rich. About midway between Pine Tree and Mariposa was the Princeton mine, said to have been one of the most productive in California. The Mount Ophir mine was on the mother lode; but the Bear Valley veins and numerous others, which were embraced in the final survey of the

grant, were either entirely independent or such widely separated branches of the mother lode as to be substantially independent. The survey in fact embraced a vast plexus of veins running in different directions, which taken together, with good management, might have yielded many fortunes; but almost everything connected with the property seemed to go wrong almost from the start; and, though vast sums of gold were taken out of it, vast sums were also sunk in it. After Fremont's failure, the estate was taken by his creditors and a company organized with a nominal capital of ten millions of dollars to carry it on. But the management, instead of becoming better, became worse. Large amounts of the stock of the company, being put upon the market at the same time that various reports upon the property by scientific men whose expert opinions could be purchased were published, and just after a few months of extraordinary effort had produced extraordinary monthly returns, brought in large amounts of money. Yet, notwithstanding the great quantity of outside capital thus collected and the natural wealth of the mines themselves, the debts and incumbrances kept on increasing; the mining substantially stopped; the mills fell into decay, and finally the property had to be sold out at a ruinous loss under the sheriff's hammer.¹

In addition to the mining towns on the Mariposa estate, there were several others in Mariposa county that were noted in their day, among which were Coulterville and Hornitos. Coulterville, about twenty-five miles northwest of Mariposa and north of the Merced river, was, like Big Oak Flat, on one of the most usually traveled routes to the Yosemite valley. In its neighborhood and particularly to the eastward of it were a number of rich veins of auriferous quartz, much of which was so beautifully colored and so richly marked with coarse threads of gold as to furnish some of the finest material for quartz jewelry in the country. Hornitos, twelve or fifteen miles west of Mariposa, was one of the richest localities for placer mining as well as one of the largest and most active towns in the Southern Mines. But as a general rule the Mariposa placer deposits though rich were shallow and as soon as water could be procured were speedily

¹ Resources of the Pacific Slope, 20-30.

exhausted. One spot called Horseshoe Bend on the Merced river had a population of four hundred miners in 1850; and several other places, such as Maxwell's Creek and Peñon Blanco, yielded for a time large returns—the last named, it is said, paying two men for two months' work in 1863 the large sum of sixteen thousand dollars. There was a very rich place on the top of Buckhorn mountain, about ten miles east of Coulterville and about fifteen hundred feet above the Merced river, which paid wonderfully well while it rained but at other times could not be worked for want of water. In proportion to the yield of gold Mariposa had fewer ditches than any other county in the state, there having been only two or three and those comparatively very small.¹

The mining localities south of those mentioned were not very important. A few spots in favorable locations along the little creeks as far south as the San Joaquin river, where that stream comes down in a westerly direction from the Sierra Nevada, remunerated the miners who worked them with satisfactory returns; but there have been no such placer or quartz veins discovered as in the vast regions that have been described as lying further north. On the contrary the mines in this direction gave out at the San Joaquin, just as they did in the north where the Sacramento or its great tributary Pit river came at a higher latitude from the same mountain chain. And by a very little stretch of imagination it may be said that each end of this great gold-producing region was guarded by a giant; for while off in the north, overlooking but not too close to the auriferous fields of the Feather and the Yuba, stood in snowy grandeur the heaven-piercing height of Mount Shasta, away off in the south, overlooking the Merced and the Tuolumne and with equal if not superior grandeur and dignity, uprose the sublime mass of Mount Whitney. Time was—when the treasures they guarded were being deposited in the veins and fissures of the foot-hills or were being washed in the gravels of the ancient river beds—that both these giants breathed forth fire and flames. And well did they keep their watch and ward over the mighty hoard until those appeared upon the scene who were fit to lift it to the light of day and pour it into the lap of commerce.

¹ Resources of the Pacific Slope, 20, 31-35.

CHAPTER V.

GOLD DISTRIBUTION AND GOLD RUSHES.

THE remarkable symmetry between those portions of California lying north and south of the bay of San Francisco respectively, the northern being represented in part by the Sacramento and Russian rivers and the southern by the San Joaquin and Salinas rivers, the one dominated by the lofty Shasta and the other by the still loftier Whitney, was still further maintained in the distribution of its auriferous grounds. As the Russian river on the north and the Salinas river on the south were independent adjuncts or additions, so to speak, to the great system of drainage of the Sacramento and San Joaquin rivers, so there were independent adjuncts or additions to the great mining regions of the Northern and Southern Mines. One of these, leading off from the neighborhood of Shasta towards the coast in the northwestern corner of the state, was known generally as the Trinity river and Klamath mining region and the other, leading off from the neighborhood of Whitney towards the coast in the southwestern corner of the state was known generally as the Kern river and Los Angeles mining region. Neither of these regions could compare in yield or richness with the Northern or Southern Mines; but there were many rich spots in them and particularly in points along the Trinity and Klamath rivers.

The first discovery in the Los Angeles region was that suggested by Andres Castillero and afterwards accomplished, as has been shown, by Francisco Lopez at the Santa Clara river in what is now Ventura county, in 1842. It was soon found, as has also been shown, that the deposits so discovered northwest of Los Angeles extended to the eastward and it was in time ascertained that they crossed over the mountains forming the Tejon and ran up towards the southern end of the Southern Mines. The Los

Angeles mines, worked more or less to this day, have never yielded large returns and can hardly be said to have reimbursed the expense of finding and working them. The Kern river mines were discovered in the early part of 1855 and produced in the spring of that year one of those great excitements, known in the olden times as mining "rushes." In the course of a few months some five thousand adventurers, leaving better places, made their way thither only to be disappointed and almost every one of them to be obliged to return much poorer than he went. It was found that Kern river headed with several forks in the neighborhood of Mount Whitney and thence ran southerly and southwesterly to what is now the vicinity of Keyesville, the chief town of the district, which is about thirty miles north of Tehachapi Pass. From there the river ran in a single stream southwesterly to the swamps and sloughs surrounding Kern and Buena Vista lakes, and thence by sloughs, one of which is sometimes called Kern river slough, northwesterly to Tulare lake. The first of the Kern river mines that were worked were placer diggings at and near Keyesville and subsequently a number of quartz veins were opened at or near Keyesville and also at Greenhorn Gulch and other places not far distant.¹ But though some men made wages for a while and some continued to work their mines for years, there was nothing found in the region to justify the excitement. There was gold in almost every direction; but not nearly so much nor so easily procurable as in many other parts of California; and when the facts came to be known it was ascertained that the reports about the famous Kern river mines were all more or less false or so much exaggerated as to be no better than false.

Klamath river, the main stream of the northwestern corner of the state, takes its rise in Klamath lake and flows in a southwesteरly direction, emptying into the ocean about fifteen miles south of Crescent City. Before reaching the ocean, however, it makes an extraordinarily large and acute bend to the south; and at its extreme southern angle receives the Trinity river, a tributary almost as large as itself, which heads near Mount Shasta and runs first southwesterly and then northwesterly to the point indicated. This river was discovered in the spring of 1845 by Pearson B.

¹ Visalia Delta, November 26, 1859.

Reading in the course of a hunting and trapping expedition which he led in that direction from Sutter's Fort. He supposed that it emptied into Trinidad bay as laid down on the old Spanish charts and therefore called it the Trinity river. In 1847 Reading settled on Clear creek in the southwestern portion of the present Shasta county. In 1848, after the discovery of gold at Coloma, he visited the placers there and, remarking that various spots on the Trinity resembled the vicinity of Coloma, made up his mind that the precious metal was as likely to be found in the one neighborhood as in the other. Acting upon this belief he organized a small prospecting party in the summer of 1849 and, proceeding to the Trinity, discovered the auriferous bars which made the river famous. Almost immediately returning to the Sacramento valley, he announced his discovery, or it became known in some other way; and a great rush for the new mines began. There were numerous parties of adventurers attracted by the reports, which lost nothing in passing from mouth to mouth; and the entire regions of the upper Trinity were explored and various spots found that were rich. The chief of all these places was a high hill a short distance north of the southern bend of the Trinity river, where a deep auriferous gravel deposit was found; and that point being one of the richest as well as the most convenient of access from the Sacramento valley, whence all the supplies had to be packed by mule trains over the mountains, soon grew up into the main town and distributing point of the region and was called Weaverville. A few miles further down the river was Rich Bar; about fifteen miles further down was Big Bar, and five or ten miles still further down were Canadian Bar and Long Bar respectively. Up the river about ten miles from Weaverville was Lewiston and some fifteen or twenty miles further northeast were Minersville and Trinity Center, which with a few little places on creeks and gulches constituted the main mining locations on the Trinity.

In the course of the year 1850 a number of parties crossed over the rough mountains, northward and northwestward of the places named, to the Klamath river and its tributaries called Scott and Salmon rivers, all of which were found to be rich. On Scott river were several auriferous localities and particularly Scott's

Bar near the junction of the stream with the Klamath; on Salmon river were Sawyer's Bar, Bestville, Nearp Flat and Gullion's Bar; while on the Klamath, starting from Scott's Bar and going southwestward, were Johnson, Happy Camp, Wingate Bar, Orleans Bar and Red Cap, all noted in their day. It was supposed for a time by the adventurers of 1850 that they were the first white men to see Salmon river; and certainly there could have been but very few before them; but they one day, while going down the stream, found growing on its banks an alder tree, which bore upon its trunk the plain mark of an ax. It was not a recent scar, as it was nearly grown over; nor could it have been made by the Indians, who knew nothing about the whites and had no implement that could make a cut like that of an ax. The only explanation was that some adventurer of an earlier date, doubtless a hunter or trapper, had made his way into those remote and rough solitudes and left a monument of his visit, which there was no mistaking.¹

The Trinity and Klamath river mines never amounted to any great figure as placer diggings, particularly after the first season or two; but a number of quartz veins were afterwards discovered at various points along the two rivers and their tributaries; and some of them developed into paying workings. But though, as in the Los Angeles and Kern river mining regions likewise, some work is still done and some gold still collected; and once in a while new discoveries are made; the time soon passed for mining to be looked upon as the chief or even as a very important industry. It was rather stock-raising and agriculture that carried the region forward in the march of progress and improvement. By the act of February 18, 1850, by which California was first divided into counties, the entire northwestern corner of the state, between the parallels of forty and forty-two degrees of north latitude and west of the summit of the Coast Range of mountains, was declared to be Trinity county. In 1851 the northern portion of this territory was declared to be Klamath county. In 1853 Humboldt county was erected out of the western part of Trinity; and in 1855 the present boundaries of Trinity were defined and Weaverville declared to be the seat of justice, which it still

¹Statement of E. G. Waite, a pioneer Salmon river miner.

remains. In 1857 Del Norte county was carved out of Klamath, and in 1874 all that was left of Klamath was divided between Humboldt and Siskiyou counties—thus presenting the only spectacle, among the numerous creations of new counties and consequent new jurisdictions and new systems of offices and officers, of an instance in which a county with its adjuncts of offices and officers was done away with.¹

From the general description of the auriferous regions of California thus given, it appears that the gold was distributed in a broad belt on the western slope of the Sierra Nevada from about the latitude of Mount Shasta on the north to that of Mount Whitney on the south and thence with continuations or extensions to the ocean, northwestward at the northern end and southwestward at the southern end. Such was the case with the main deposits discovered; but there were many other places in which small amounts of gold were found, though rarely in sufficient quantities to pay for working. There were small quartz veins with specks of gold in them in the neighborhood of San Francisco and several comparatively large ones in the Santa Lucia mountains to the south of Monterey; and unquestionably there are many places yet uncovered where it will pay, for a while at least, to dig and wash the heavy earth for its precious grains; but the main source from which the world has been supplied with Californian gold has so far been the Sierra regions opened up in the early days and known, as has been seen, as the Northern and Southern Mines.

There can be but little doubt that the gold was originally deposited by or as a result of volcanic action. It was thrown up with quartz through the veins and fissures of other rocks and solidified usually in the metallic state, sometimes in the form of nuggets, sometimes as sheets or threads, and sometimes in larger or smaller particles or grains mixed with quartz. The main veins or fissures bearing the gold were chiefly, and so far as California was concerned almost exclusively, on the west slope of the Sierra, a couple of thousand feet lower than the summit. It is a remarkable fact that little or no gold has been discovered near the top of the mountains and that almost all the rich bars

¹Stats. 1850, 58; 1851, 172; 1853, 161; 1855, 200; 1857, 35; 1873-4, 755.

have been at comparatively low levels. As prospecting progressed and observations accumulated, it was found that the gold gathered in the gravels and sands of the bars and gulches varied greatly in its quality and in the size and shape of its grains; and a good expert could tell with much accuracy where specimens exhibited to him came from. The poorest quality usually came from Kern river, where it was sometimes so much mixed with silver as to be nearly white and worth only about one-half so much as pure gold. It improved in Fresno county and still more so in Mariposa, and in Tuolumne, Stanislaus and Calaveras reached a very high standard. In Amador and El Dorado it varied greatly but on the whole was not so good; further north it improved again, reaching the highest standard of nine hundred and ninety parts fine in a thousand in portions of Sierra and Butte counties; while in the Trinity and Klamath regions, though better than at Kern river, it was still comparatively poor. In size the particles varied from large nuggets to very small grains, the largest weighing nearly two hundred pounds and the smallest being invisible to the naked eye; while in form they varied from large irregular lumps, more or less rounded by being rolled along in the beds of mountain torrents, to smaller pieces resembling beans, peas, grains, scales, very small seeds or dust. When dug or picked out of veins or found in its original matrix of quartz the metal, not having been subjected to rolling or attrition, generally resembled those odd shapes taken by small quantities of lead thrown molten into water. Sometimes it was found in the quartz in the form of sheets, sometimes in that of threads and in a few cases resembling fern leaves.

The largest nugget found in California appears to have been at Carson Hill, Calaveras county, in November, 1854. It was a lump, some fifteen inches long by six wide and four thick, weighing about one hundred and ninety-five pounds troy and worth over forty-three thousand dollars. It was perhaps the third richest gold nugget ever found, the largest being from Chili and said to have weighed over four hundred pounds troy, and the second from Ballarat, Australia, found in 1859 and weighing two hundred and twenty-four pounds troy. The next

largest in California was taken in 1860 from the Monumental Quartz mine at the Sierra Buttes in Sierra county and weighed one hundred and thirty-three pounds troy. A nugget containing seventy-five pounds of gold was said to have been found by William Gulnac at Wood's Creek in Tuolumne county in 1848. In 1855 a nugget was found worth ten thousand dollars at French Ravine in Sierra county, where another had been found in 1851 worth eight thousand dollars and still another in 1850 worth nearly five thousand dollars. In 1858 a nugget, weighing over fifty pounds and containing over eighty-five hundred dollars worth of gold, was found by a Mr. Strain about half a mile east of Columbia in Tuolumne county on a trail leading up the slope of a hill, where it had been repeatedly passed by others. In the same year a nugget of about the same size was found by a Mr. Willard on Feather river. In 1867 a boulder of gold quartz was picked up at Pilot Hill, El Dorado county, worth eight thousand dollars.¹ In 1851 a Mr. Wheaton found a nugget worth nearly five thousand dollars at Holden's Garden in Sonora, Tuolumne county; and in 1859 a Mr. Virgin found one worth about seven thousand dollars at Gold Hill near Columbia.² In 1851 a resident of Sonora in taking an early Sunday walk among the hills surrounding the town struck his foot against a large stone. He ought, perhaps, like the melancholy Jacques, to have found a sermon in it; but, instead of doing so, he commenced apostrophising the rock in language that was very far removed from that of a sermon when, suddenly observing that it was a great nugget with much more gold than quartz in it, he affectionately picked it up and carried it home with a considerably lighter step than he had gone out.³ It is said of another resident of Sonora that one morning after a very heavy rain, while leading his mule attached to a cart up the principal street of the town, he struck a large stone and, upon stooping down to remove it out of the way, found it to be a solid nugget of gold of about thirty-five pounds weight.

¹Second Report of State Mineralogist of California, Sacramento, 1882, 147-150.

²History of Tuolumne County, 64, 286.

³Mountains and Molehills, 278, 279.

Hundreds of people had been traveling over it daily. The discovery created so great an excitement that in less than an hour the whole of that part of the town including the street was staked off in mining claims.¹ There was a considerable number of other large nuggets found in different parts of the state, among which was one at Dutch Flat in Placer county worth over fifty-seven hundred dollars; one near Kelsey's in El Dorado county worth forty-seven hundred dollars and one near Michigan Bluffs in Placer county worth forty-two hundred dollars, while of smaller ones the list increased as the sizes diminished.

The first piece of gold picked up by Marshall in the Coloma mill-race is said to have been a small piece worth only fifty cents, and the second to have been worth five dollars. It is not known what became of either of them, for the gold made into a ring by Sutter, and by him called the first gold, consisted of pieces subsequently picked up. The first large nugget was discovered in the summer of 1848 by a soldier of Stevenson's regiment, who while riding along the Mokelumne river stopped to drink at a little stream where he found it lying. It weighed between twenty and twenty-five pounds. He hastened with his prize to San Francisco and placed it for safe keeping in the hands of Governor Mason, who afterwards sent it east; and it helped confirm the seemingly extravagant stories that had been told about California's wealth. A Frenchman some years afterwards found a nugget of about the same size at Spring Gulch near Columbia in Tuolumne county and became so excited over the discovery that he was pronounced insane and sent to Stockton. The nugget or its proceeds were afterwards forwarded by the French consul in California to the family of the unfortunate man in France.² But the most remarkable story about a nugget was told of another and probably one of the largest pieces found. It appears to have been discovered by three or four men who were not disposed to place much confidence in anybody or even in one another. In bringing their prize to San Francisco, where it was exhibited, they guarded it night and day. It was afterwards carried to the eastern states and exhibited; but there the

¹ Six Months in California, by J. G. Player-Froud, London, 1872, 53.

² Second Report of State Mineralogist of California, 148, 149.

owners quarreled and got into a lawsuit in the course of which the magnificent specimen was eaten up in the way of costs and expenses.

By taking into consideration the places where the gold was found and the size, shape and character of its particles with reference to the places where they were picked up, it became possible to form an idea, more or less accurate, of the nature and kind of gold distribution in California. It was plain that the deposits which were locked up in the veins of quartz were in the same state in which they had been originally deposited. The angular pieces could not be very far distant from the places where they had been formed, while the rounded pieces must have been subjected to more or less attrition and the fine scales and dust of the gravels were likely to have been carried for long distances. By classifying the observations and testing the inductions by further observations, it became evident that the main original deposits were in quartz or limestone veins on the western slope of the Sierra Nevada at elevations of from one thousand to four or five thousand feet above ocean level. Among the chief of these was what was called the Mother Lode, already described, which was distinctly traceable on or near the surface from Mariposa county to Amador county, and its frequent branch or companion veins. The Merced, Tuolumne, Stanislaus and Mokelumne rivers, together with a number of their tributary creeks cut the lode, principally at points where it was split up into branches, while at the points where it was wide and solid there were high hills as at Pine Tree, Pefion Blanco, Whisky Hill, Quartz Mountain and Carson Hill. The gold was usually distributed in it in fine particles and there was very little of the quartz without gold. Carson Hill was its richest part; but it was very rich in many places and it constituted, with the already described limestone belt to the east of it, the great wealth of the Southern Mines.¹

In the Northern Mines there were a number of quartz lodes where the gold was found as originally deposited, among which were those of Grass Valley, Nevada, Eureka and Meadow Lake respectively in Nevada county; those of the Sierra Buttes and

¹ Resources of the Pacific Slope, 14, 15.

others in Sierra county; the Pennsylvania and others in Yuba county; those of Forbestown, Bangor and others in Butte county, and those of American valley and Indian valley in Plumas county. The rivers of the Northern Mines cut through the northern lodes just as the rivers of the Southern Mines cut through those of the south; and as all these rivers were torrents, falling over a hundred feet to the mile on an average, their eroding force was tremendous; and where they cut through the quartz veins, and especially where these veins had from exposure to the weather or otherwise become disintegrated or rotten, their gold was carried down stream to be deposited far or near according to circumstances. But it was plain, on the most cursory examination of the placer deposits in the river beds, bars and flats and particularly in those that were high up in the mountains, that the gold found in them had not all nor indeed chiefly been torn from its original matrix by the present rivers. On the contrary it was found that there were many ancient river beds or channels of a primeval world, sometimes called "dead rivers," whose currents had run nearly at right angles to the courses of the present mountain streams and had carried along with their gravels most of the placer gold. It is possible that in that ancient world glaciers may have had something to do with carving out the gorges in which these old rivers ran; and for that matter glaciers may have helped to chisel out the tremendous depths of some of the present rivers; but, be that as it may, most of the old channels ran in a general north to south direction and their auriferous gravels in many places were hundreds of feet deep. The most famous of these was the Blue Gravel channel extending from near the northern line of Sierra county and running in a southeasterly direction a distance of about sixty-five miles to near the southern line of Placer county at Forest Hill. It was about as long in other words as the famous mother lode of the Southern Mines. North of Sierra county it was covered with lava or otherwise lost, while south of Placer county it was washed away or covered by other deposits. The ancient stream, which made it, was about a quarter of a mile wide and ran nearly parallel with the Sacramento river, but at a much higher elevation and about fifty miles further eastward.

It carried ten or twenty times as much water. The elevation of its bed at the northern end was forty-seven hundred feet above sea level, and at the southern end twenty-seven hundred feet. The current therefore ran southerly, as indicated also by other circumstances, and was swift, having an average fall of thirty-seven feet to the mile. It had various branches coming into it; and there were numerous other channels of much the same character, some apparently earlier, some contemporaneous and some later.¹

It has been noted as a remarkable circumstance that the greater portion of the gravels of the ancient river beds were quartz, while there is only a comparatively small proportion of quartz in the gravels of the modern river beds; and that the former were much the richer in gold. The explanation is probably to be found in the fact that the ancient rivers ran in or along ancient quartz veins that were very extensive and rich in auriferous wealth. But however this may have been, it was plain that most of these old channels were covered up by other deposits, and that it was chiefly at or just below the place where the later river broke through the ancient river bed that the largest deposits of gold were to be found. In such spots the modern river brought down and deposited not only what gold it was itself able to tear from the quartz veins through which it broke but also the golden grains of the ancient river channel which it found in its way. Such were the famous old bars and flats where in the very early days fortunes could be scraped up from crevices in the rocks with butcher knife or spoon or washed out with pan or cradle from particularly lucky holes, and where the gold that was washed in by the winter torrents could not get out again and had to wait, like the Sleeping Beauty in the fairy tale, for the coming of the prince to release her.

But the most remarkable of these old river channels, rich in the precious grains to be found among their gravels, were those that were buried under what were known as the table mountains. There were two of these strange formations in California; one, known as the Tuolumne Table mountain, in Tuolumne county and belonging to the Southern Mines and the other, known as

¹Hittell's Resources of California (6th Ed.) 338-341.

the Butte Table mountain, in Butte county and belonging to the Northern Mines. The former extended across the country, like a gigantic black wall, composed of basalt, with nearly perpendicular sides and a top that was bare and almost level, and presented one of the most marked features of Tuolumne county. It was formed in a primeval age by a flow of lava, poured from a volcano near Silver mountain in Alpine county, and ran southwesterly in nearly the same course as the present Stanislaus river, which has cut through it in several places, having a width of about a quarter of a mile, a depth of several hundred feet and a length of over forty miles. It followed the course and filled up the bed of an ancient auriferous river, with a fork in the basaltic stream about fourteen miles above Columbia. After the lava flow had cooled and hardened, the softer earth on either side, which had originally formed the banks of the ancient river, was in the course of succeeding ages washed away to a depth of from five hundred to eight hundred feet on the northern side and from two hundred to five hundred feet on the southern side, leaving not only the basalt and lava but in many places the gravel of the old river bed above the general level of the country. This was particularly the case on the north side, from which most of the numerous tunnels that afterwards led to its buried treasures were run in. On the other hand in sinking down from the level top of the mountain, a layer of basalt, about one hundred and forty feet thick, had to be first penetrated; then came a layer of volcanic sand about a hundred feet thick; then about fifty feet of clay and sand, and then the auriferous gravel of the old river channel some twenty-five feet thick, the pay dirt of which lay at the bottom on the bed-rock.¹

The Butte Table mountain commenced, so to speak, at Lassen's Peak in the northern corner of Plumas county and extended southerly to the north bank of the Feather river opposite Oroville—a distance of some sixty miles, though more than half of the northern end was covered and concealed by other formations. At Feather river it stopped, unless certain hills with basalt summits near Bangor, some twelve miles southeast of Oroville, could be called continuations of it. It had been formed in the same

¹Resources of the Pacific Slope, 38-40.

general manner as the Tuolumne Table mountain by a flow of lava running in and filling up the bed of an ancient river; but the lava stream was larger, being nearly a mile wide; and there were several branches or forks. Just above Oroville there appeared to be two table mountains, one behind the other; and the general elevation of the level top of the mountain above the surrounding plain in that locality was about one thousand feet; or, in other words, there had been a denudation of the earth on each side of the basaltic stream of about one thousand feet. The apparently level summit was not entirely level but declined about one hundred feet to the mile southward and about fifty feet to the mile westward. Tunnels were run in and shafts sunk at various points to the auriferous gravels of the ancient river bed under the basalt and lava of this mountain in much the same manner as in the Tuolumne Table mountain and with more or less similar results. One of the principal of these places was Cherokee, eight or ten miles north of Oroville, where the basalt had been denuded for a distance of four miles, so that the miners could reach with comparative ease the auriferous gravel. Between the two branches of Table mountain, a mile or so north of Feather river in Morris' Ravine, was Sebastopol and between it and Cherokee was Oregon City, both of which were also very rich places.¹

The richness of the mining places thus discovered and the fact that most, if not all of those, which had been found in the beds of modern rivers or in the buried channels of ancient ones, clearly indicated by the position and character of their gold that it had been brought from higher levels, gave rise, as has been seen, to the supposition that there were fountain heads of the precious metal or spots where it could be gathered in quantities far beyond anything ever before known.² This was in part the reason, as has been seen, of the restlessness of many of the old miners, who were rarely satisfied with what they were actually doing but wanted to be doing something better.³ Having such

¹ Resources of the Pacific Slope, 157, 158; San Francisco Bulletin, June 17 and 25, 1857.

² Buffum, 35, 36.

³ Buffum, 62; Ryan, II, 21.

ideas they were ready to listen to almost any story about new discoveries and as a rule the more extravagant the story the more credible or at least the more worthy of examination. They thought, like the usurer, that, though the chances for success might be against them, yet success in one operation would compensate for failure in many and that by believing all the stories they would probably believe one or more that was true; and one true one would pay for a multitude of false ones.

One of the first extravagant stories that were thus believed and which produced an extensive commotion or "rush" among the old miners was told by a mountaineer named John Greenwood in June, 1849. He was what may be called a "hard case" and particularly in reference to his connection with the Indians of El Dorado county, as will be shown hereafter. About the time designated, being then living or rather sojourning at Coloma he amused himself in leisure moments with telling wonderful stories; and, among other things, he said that many years before, while encamped on Truckee Lake, he had found gold there in immense quantities; but that, not knowing what it was, he had left it lying and not until then mentioned it. On the strength of this statement a large party was formed under the lead of John Greenwood Jr., a son of the narrator, which proceeded with great difficulty across the mountains in the direction indicated; but after an absence of six weeks the adventurers returned half starved and the roughest and raggedest looking set of men ever seen in the country. They had crossed the mountains to what was called Truckee Lake by the old romancer; but they found no gold for the simple reason that there was none and never had been any.

But this Truckee Lake business of June, 1849, was a tame affair in comparison with one of June, 1850, which was known as the Gold Lake excitement. This appears to have been started by a man named J. R. Stoddard. He reported that, in the course of a prospecting trip in the mountains northeast of Nevada, he had found a lake at the head of one of the branches of the Middle Fork of Feather river between Downieville and Sierra valley, the banks of which were literally covered with gold. According to his story there was no end of the precious deposits; and they

lay on the shores of the lake open to everybody. It was at that time a remote spot, difficult of access; but its wealth was supposed to be beyond question. Under the circumstances a very large crowd followed Stoddard when he offered to lead them to the golden shores; and in due time the adventurers reached Gold Lake. But there was no more gold found there than at Truckee Lake. Such being plainly the case the treasure-seekers, who had been deceived, formed themselves into a sort of lynch-law tribunal and proposed to hang Stoddard; but a very short investigation convinced them that the man was insane and that, instead of being duped by him, they had duped themselves. All they could do was to release Stoddard and make the best of their way back to paying diggings, poorer but wiser men than they had started out. And in after years it was also some satisfaction to recall and live over again in memory the manifold and interesting experiences of the famous Gold Lake rush.

The next great mining excitement was that of Gold Bluff in the spring of 1851. This originated in reports, industriously circulated by interested parties, that the sands of the ocean beach for miles south of Klamath river were largely composed of gold. The shore there was a high and bold bluff, against which the surf continually dashed, except at low water and in very calm weather; and it was supposed that the waves had in the course of time eaten out and washed down from the bluff immense quantities of gold, which by constant turning over and over they had ground into fine scales and playfully tossed about with every change of tide. There was doubtless some truth in the story, for the reason that the bluff there is known to contain gold and that specks of it are not unfrequently met with in the black sands of the beach; but, according to the reports referred to, these sands were nearly one-fourth, some said one-half, gold and all that was necessary to be done was to shovel it up at low tide and carry it off. It was even said that the quantity was enough to yield each of nine persons, who claimed to own the auriferous beach, the incredible sum of forty-three millions of dollars. Meanwhile the pretended owners, who had made themselves busy in spreading these reports—and among whom the most active perhaps were John Wilson, usually known as General John

Wilson, and John A. Collins—organized a company at San Francisco for the purpose of disposing of the property and proceeded at once to put illimitable quantities of stock on the market at the rate of a hundred dollars per share. Collins, the secretary of the company, who told the largest stories, was an enthusiast and appeared to believe and doubtless did believe all he said; and his earnestness induced others to believe and to invest. Shares were sold right and left; the excitement rapidly increased; large quantities of money came in, most of which the company expended in purchasing a vessel and preparing the way for the most extraordinary business the world had ever seen; while numerous shipping offices, taking advantage of the popular furor, advertised their vessels to sail for the north and a number of adventurers actually got under way for the golden shore.

But the bubble soon burst. The very first information from practical men, who had been induced to examine the supposed golden sands, showed that they were not worth gathering. The stories about the ocean being a mighty cradle that had for countless ages rocked the golden particles and finally thrown them up in ship-loads under the Klamath bluff were seen to be mere fancies that had been developed in Collins' fertile imagination. The vessels, that had been advertised for the northern waters and had not got off, did not sail; the company, which had invested so largely on the faith of future returns, made nothing; and the adventurers, who had invested and particularly those who visited the bluff and tried their hand at collecting the sands, lost both their money and their time.¹ The collapse was so complete and so enormous that people became ashamed of having been taken in with such improbable stories; and for several years afterwards the community was exceedingly cautious about touching mines involving so many millions.

From time to time during the next few years there were rumors about new discoveries and big strikes in various directions; sometimes they were in the north and sometimes in the south; sometimes in the known gold regions and sometimes beyond them; and there was more or less restlessness and agitation

¹ Annals of San Francisco, 311-314; Hittell's History of San Francisco, 272, 273.

among the miners. But it was not until the spring of 1855 that another great rush occurred, and its circumstances showed that credulity, though restrained for awhile, was as rife among certain classes of the old adventurers as ever. This time the excitement was about Kern river. Exactly how it originated is more or less doubtful; but it is certain that very extravagant accounts were published in the newspapers about immense deposits of gold on the head waters of that stream. According to one account a Mexican physician had appeared at Mariposa loaded down with precious nuggets and reported that he and four companions had discovered a region that was fairly ablaze with them near the source of that river. They were of pure gold and lay scattered over the lowlands like boulders in the bed of a mountain creek while the hills round about were yellow with outcroppings. While feasting their eyes with the sight of so much wealth and loading up bags of it, he and his companions had been surprised by the Indians and all killed except himself. By adroit dodging he had managed to escape the bloodthirsty natives with one of the sacks of gold—and there it was to witness his veracity. He proposed, it was said, to organize a company, preferably of foreigners, large and strong enough to exterminate the Indians and then pack out the gold by bagsful on the backs of mules. This and similar stories getting afloat, a great number of miners, estimated at about five thousand, who were not doing much at the time, hastened to Kern river and explored it and all its tributaries from end to end. They found a little gold, so mixed with other metals however as to be of the poorest grade in California, and here and there a quartz vein that with careful and economical working might be made to pay; but a very cursory examination of the country convinced them that the accounts of nuggets and boulders and mountains of gold were sheer fabrications; and in the course of a few months the tide turned and the rush from Kern river was as rapid as it had been to it.

Next after the Kern river rush was that to Fraser river in British Columbia in the spring and summer of 1858. This was the longest and most disastrous of all the mining excitements. Gold had been found in the bars of Fraser river about a hundred

miles from its mouth; and a number of sanguine miners there jumping at conclusions and carried away with enthusiasm, asserted that the Californian experiences of 1849, only on a larger scale, were about to be repeated in those northern latitudes. There were at that period many idle men in California, because most of the placer mines in the Sierra Nevada had become exhausted and the population that had lived by placer mining had not yet settled down to other pursuits. They wanted employment and were ready for almost anything that would give it to them. Besides, they had lived in the flush times and looked back upon them as the most glorious days of their existence; and for a repetition of them or even an approach to them, they were willing to go to the ends of the earth and endure almost any amount of toil and privation. Such being the case, they heard with joy of the new gold fields that were to rival those of California and, in spite of the accompanying reports of the rough and inhospitable country along the Fraser, they got ready by thousands to penetrate at any risk and ransack at any labor every nook and corner of that remote and almost untrodden wilderness.

The rush commenced about April and lasted till September. The first adventurers from California, who went up the Fraser, wrote back that the river was much larger than any in California and that it was doubtless full of gold; but that the water was as yet too high to work the bars or bed or even to thoroughly prospect them. Besides these reports, which were of themselves calculated though perhaps not intended to whet expectation, there were various exaggerated accounts gotten up by parties interested in the business of transportation and providing supplies, and not a few sensational articles in some of the newspapers which tended still further to increase the agitation. The steamers from San Francisco for the northern coast went away crowded; and, in addition to the thousands carried by them, over a hundred sailing vessels assisted in depleting the state. It is said that within four months over twenty-three thousand persons or six per cent. of the entire population of California left for the new El Dorado. Real estate fell to half its former value in San Francisco and much more in other places and particularly in the min-

ing towns, where it became nearly worthless; and for a while it seemed as if California was about to be depopulated and the great commercial emporium of the Pacific, which had appeared to have been fixed on the bay of San Francisco, was about to transport itself to Victoria or some other point within the mouth of the straits of Juan de Fuca. And no doubt, if one-tenth of what for a while was said and believed about Fraser river had been true, California would for the time at least have suffered greatly. But there was very little truth in any of the stories that had been told. As soon as the water in the Fraser fell sufficiently to allow of thorough prospecting, it was found that, though there was some gold, it was comparatively small in amount and exceedingly difficult to obtain. By the middle of July it was known by those who were well informed that the rush was a huge mistake, and by the middle of September it became a subject of ridicule.

Meanwhile the adventurers began coming back very much disgusted with their experiences on Fraser river. They had all spent a great deal of money and many of them had sacrificed all the property they had; but all the property and most of the money remained in California and had merely changed hands, so that, when the bubble burst, it was found that California had not lost much. On the contrary business, after the reaction began, became brisker than ever; real estate advanced to more than its former values ; and, on striking a final balance, it appeared that, though some individuals were impoverished, the community in general was richer in every respect. And the moral effect was almost as great as the financial. The miners, who had been inveigled into the wild and lonely regions of the Fraser, upon contrasting them with those of the Sierra Nevada, recognized the immense superiority of the latter and returned better satisfied with California, as a place of business as well as of residence, than ever before. Many of them who had been restless for years were cured of their propensity to roam and, upon getting back to the little valleys and flats they had left, settled down for good, never again to be tempted to wander.¹

As a result of the Fraser river excitement and the sorry outcome of speculations based upon it, the community in general

¹ Hittell's History of San Francisco, 273-278.

were heartily sick of rushes in the spring of 1859, when the Washoe or Nevada mines began to be talked about. It appears that as early as 1850 a few Mexican miners dug for gold in the neighborhood of Gold Hill, less than a mile south of the present Virginia City. But it was not until 1853 that the great Comstock lode was found and its argentiferous quality ascertained. The discoverers were two brothers, named respectively Hosea B. Grosh and Ethan Allen Grosh. They were born in Pennsylvania and came out to California, by the way of Mexico, in 1849. They mined first at Mud Springs in El Dorado county and in 1851, in the course of a prospecting tour, crossed the summit of the Sierra and went down into Carson valley. In 1853 they made a second and much longer prospecting trip into Carson valley and, in carefully examining the region, discovered silver at a place called Sugar Loaf in Six-Mile Cañon near the present Silver City. Though doubtless not aware of the very great value of their discovery and though they were careful not to divulge too much, they still seem to have attached a great deal of importance to it and in the spring of 1855, after spending the winter at Volcano in California, returned to Sugar Loaf to continue their explorations. While there they spoke to several persons and among others to one of the Mexican miners, known as "Old Frank," who seems to have been hunting for gold, about their discovery of silver in 1853. But little attention, however, was paid to the matter at that time; and again they returned to California for the winter. The next year they were unable, on account of their lack of means, to return to Carson valley; but in the spring of 1857 they again sought out their old prospects and built a cabin near Silver City and about a mile above Johnstown. On August 19 of that year, while at work prospecting, Hosea struck his pickax through his foot and the consequence was that blood poisoning set in, and on September 2 he died. His brother Ethan Allen in the following November attempted to return to California but was overtaken by a snowstorm on the summit of the Sierra. By killing his mule he managed to subsist for four or five days; but he could not escape the terrible cold and both his legs were frozen to above the knees. Though finally rescued and though his legs

were amputated, it was too late. He died December 19, 1857.

Substantially nothing more was heard about Carson valley or Gold Hill or any other part of the Washoe country until 1859. It is said by some that the cabin of the Grosh brothers at Silver Hill fell to the charge of Henry Comstock, a gold miner of those regions, and that he took advantage of information found in their papers to afterwards locate the famous silver lode, which subsequently went by his name and proved to be the richest and most extensive silver lode in the world. Whatever connection, however, Comstock may have had with the Grosh brothers, there does not appear to be a particle of truth in the attempted slur cast upon him by the friends of Grosh. The fact seems to be that in the spring of 1859 Comstock and other miners in the Washoe country had little or no idea of silver, but on the contrary were looking for gold and only for gold. There were two peculiar ravines or washouts coming down from the mountain situated to the west of the present Virginia City and now known as Mount Davidson. Both descended in a substantially south-easterly direction toward Carson river—the most southerly of them being called Gold Cañon and the most northerly Six-Mile Cañon. It was in the latter that the Grosh brothers had found silver; but nothing was known about their discovery or no account taken of it by the miners of 1859. They, as has been stated, were looking for gold and, finding indications of it in the ravines or washouts spoken of, followed them up toward Mount Davidson and on June 12 or 13, 1859, discovered outcroppings of auriferous quartz, containing also the ore of some other metal unknown to them.

It happened that John F. Stone, an old resident of Nevada City in California, was present at or near the scene of the discovery of the metalliferous quartz and, upon his return soon afterwards to Nevada City, carried a bagful of specimens to the office of the Nevada Journal. Some of the same or similar specimens were left for examination with J. J. Ott, an assayer of that city, and others with Melville Attwood of Grass Valley. Mr. Ott, upon a careful assay, found that the new discovery indicated a yield of fifteen hundred and ninety-five dollars worth of gold and thirty-one hundred and ninety-six dollars worth of

silver to the ton of rock, and Mr. Attwood about the same. The result was a great excitement. Mulford & Hagadorn, bankers of Nevada City, without any unnecessary delay, dispatched Addison E. Head as their agent to secure interests in the new mines; and about the same time James Walsh, usually called Judge Walsh, and others of Grass Valley started on their own account. In a short time still others were on the way. On July 1, 1859, the first newspaper notice of the discovery was published in the Nevada Journal; soon thereafter a great number of persons started for the new fields; and it is estimated that within the next two years two-thirds of all the male adults of Nevada county had gone over to the silver region either to try their fortunes or visit the scenes that had created so intense an excitement.¹

The news of the discoveries at Washoe and their genuineness and value, which soon became recognized as incontrovertible facts, naturally produced a great sensation not only in Nevada county but throughout California; and in the course of a very few months a very wide extent of country east of the Sierra Nevada and comprising a large portion of the present State of Nevada was filled with adventurers. Many of these spent their time in prospecting for new mines. One of the parties, among whom was Henry Meredith, a prominent and popular young lawyer of Nevada City, while in the neighborhood of Pyramid Lake, was ambushed by a large party of Piute Indians; and in the course of a severe conflict, in which the whites were routed and scattered, Meredith and a number of others were killed. As soon as these facts became known, great alarm was felt at Virginia City, and it extended itself over California; and nowhere was the excitement more intense than in Nevada county, whose citizens by hundreds were supposed to be in peril on the other side of the mountains. A large subscription for military supplies was immediately started; quite a number of men for military service immediately volunteered; and with almost unexampled promptness a very considerable force of armed men crossed the Sierra to the scene of hostilities and took part with other forces,

¹ Bean's Directory of Nevada County, 14, 15.

hastily collected among the adventurers, in giving the hostiles a chastisement from which they never recovered.¹

Not much time was required by the kind of men who had gone over from California into the Washoe region to ascertain the facts in reference to the mines there. It was found that the main deposit was a lode, varying in width from one hundred and fifty to one thousand feet, running nearly north and south along the eastern slope of the Washoe mountains. It was not more than three or four miles long, commencing a short distance north of Gold Hill and extending thence northerly through Virginia City. From Henry Comstock, who though not one of the discoverers was one of the best known of the miners in the neighborhood, it got the name of the Comstock Lode. Like the mother lode in California it was what might be called a fissure vein or series of parallel veins containing original deposits. It differed from the mother lode of California in containing principally silver instead of gold, in extending only three or four miles instead of sixty, in lying east instead of west of the summit of the Sierra, and in being elevated some five thousand instead of two thousand feet above the level of the ocean. It was very unequal or what was called "pockety" in the character of its ore—some spots of large extent, usually lenticular in shape, being very rich and known as "bonanzas." Among these was one in that portion of the lode called the Gould and Curry mine, which was about six hundred and fifty feet long by five hundred deep and one hundred wide at its widest part. It yielded in ordinary working nearly thirty dollars per ton. Another bonanza was found in the Savage and Hale and Norcross mines, over eight hundred feet long, several hundred feet deep and about fifty feet wide, which yielded over forty-five dollars per ton. Bonanzas were also found in the Ophir-Mexican, the Chollar-Potosi and various other mines; and there can be but little or no doubt that there are many rich spots not yet discovered, which would rival and perhaps exceed in yield those that made the fortunes of the so-called "bonanza kings."²

There were various other veins of argentiferous rock found in

¹ Bean's Directory of Nevada County, 15.

² Resources of the Pacific Slope, 341-349.

Nevada besides the Comstock, though none to compare in size and richness with that lode; and they all, as well as the Comstock, contributed more or less to the wealth of California. It was from the latter state, at least up to the completion of the transcontinental railroad in 1869, that all the Nevada miners went and all their supplies were forwarded; and it was to it that all the miners, who did not remain in Nevada, returned and all the bullion, extracted from the Nevada mines, was in the first place transported. What the amount of that bullion was it might be difficult to tell with certainty; but it may be estimated to have been up to that time over eighty millions of dollars. It could not compare with the yield of gold in California, which up to the same time approached nearer to eight hundred millions of dollars. But however this may be and whatever may have been the amount of Nevada's yield, nearly every particle of it was of as much advantage to California as if it had come out of California itself.

CHAPTER VI.

CHARACTERISTICS OF EARLY MINERS.

IT can scarcely be believed, and it is indeed hardly possible, that mining can ever again become the chief industry of the state, or that it can ever again compare in importance with agriculture or horticulture or many other branches of industry that have sprung up as the state has developed. Nevertheless there is no good reason to doubt that as rich and perhaps much richer spots than any ever found by the old miners still exist, and that, as population increases and the state fills up with brainy workers, the mining industry will for an indefinite time in the future attract and hold a high place in the attention and regards of the people. But whatsoever may be the future of mining in California, it is certain that in the formation of the state and the evolution and development of the character of the Californians it played an exceedingly important part. It is for this reason, and for this reason chiefly, that so particular an account of the mining regions has been deemed necessary; and it is for the same reason that the peculiarities of the old miners, not only as a class but also in some cases as individuals, become highly significant and to some extent indispensable to an understanding of the history of the country.

The earliest miners, or the men of 1848 as they were sometimes called, were a very different class from those of 1849 and the next few subsequent years. They were composed chiefly of the old population of California, who had come out either as frontiersmen or in the service of the United States. Among them were the settlers, that had for some years been pouring into the country, and also the discharged soldiers of Stevenson's regiment of New York volunteers and of the Mormon battalion. There were a few native Californians; but in general the rancheros,

who had become accustomed to the easy and careless stock-raising life of the plains, did not take kindly to the rough and toilsome labor and exposure of the mountains, even with golden prospects in full view. Towards the end of the year adventurers began to come in from Oregon and Mexico; but the Oregon people were of the same general class as the Californian settlers; and the Mexicans, who were chiefly from Sonora and Sinaloa, though not so desirable a set of immigrants as could have been wished, usually kept by themselves and did not at first exercise much influence or cause much disturbance. With these exceptions, the main body of the miners of 1848 were steady and hard-working men, not averse to severe labor, inured to privations, honest, kind and mutually helpful. Many of them were neighbors and friends and all as a rule generous and well-disposed towards one another. It was the universal testimony that among the men of 1848 there was little or no quarreling or disorder and that theft and other crimes were almost absolutely unknown.¹

But in 1849 and for a few years subsequently, although the generality of the adventurers who came out for the purpose of digging gold were in the main steady and laborious, they found themselves suddenly transported from life in an old and well-settled community and all that is implied by or connected with such a life, to a sojourn in a wilderness, with the conditions of which they had had no experience. There were no laws or rules or customs of binding authority and no restraints of any kind. They had given up, so to speak, ease and comfort and civilization for toil and hardship and coarse living. Meanwhile the prospect of gain attracted also many vicious and dissolute persons; and large numbers of professional gamblers and criminals came along to share in the golden harvest. The immigration from Australia especially consisted, in part at least, of very bad characters, usually designated as "Sydney Ducks," who were capable of all the crimes in the decalogue.² Some of these men had made up a large proportion of the band of cut-throats and

¹ Recollections and Opinions of an Old Pioneer, by Peter H. Burnett, New York, 1880, 341, 342; Ryan II, 22; Mining Camps, &c., by Charles H. Shinn, New York, 1885, 118, 119.

² Burnett's Recollections, &c., 342.

others, already mentioned as the Hounds of San Francisco; and when that horde was broken up in the summer of 1849, as has been seen, many of its members made their way to the mines, carrying their pestilential atmosphere and influence with them.

The presence and forwardness of men of this kind, combined with the absence of respectable women and the want of refined or even decent amusements, occasioned dissipation and vice. Gambling and drunkenness became not uncommon and ruined many who under ordinary circumstances might have escaped their contamination. The old Spanish-speaking Californians, as has been seen, were by no means free from these vices; and it is said of the Mexican miners from Sonora and Sinaloa that they were nearly all inveterate gamblers and that they squandered at the monte table all the immense sums of gold they dug in the mines. But the English-speaking immigrants or rather that portion of them who allowed themselves to be led off into the deceptive path of indulgence, when they got fairly on the down grade, were worse and went much faster than any others. All over the mining regions, as soon as the new immigration came in and penetrated the mountains, the saloon and the gambling house were among the first institutions to be set up, while in the cities and towns they increased in size, richness, service and luxuriousness with the growth of population. Every eye-witness, who has attempted to describe the early mining days, has filled page after page with stories more or less connected with gambling houses and drinking saloons; and it was the same from one end of the country to the other. Nearly all the newspapers from time to time called attention to the subject; and on several occasions there were attempts made to reckon up the effects and estimate the number of human wrecks, whose ruin was clearly attributable to these causes,—some fixing the sum at fifteen per cent. of the population—but, though the list was undoubtedly large,¹ it was not near as large as the ordinary newspaper correspondent placed it and no reliance can be placed upon his guesses.

In no part of the world, perhaps, were there so much gambling

¹See *Diary of a Physician in California, &c.*, by James L. Tyson, M. D., New York, 1850, 10.

and so much drinking as in California. Not everybody gambled, nor everybody dissipated; but so many did, and the gambling houses and drinking saloons were such public and well-patronized places of resort, that it almost seemed as if everybody was addicted to those vices. Throughout the entire country, wherever men congregated and even where they sojourned with any regularity and in any numbers on their way to other localities, there were sure to be places for drinking and gambling; and among the supplies carried into the mining camps liquors and cards and their usual concomitants found a very large and expensive proportion. Sometimes the places where drinks were dispensed and gambling was carried on were very rough; but they were not too rough for the characters that kept them up. An amusing experience was related by one of the early adventurers on the Yuba river, who chose an easier way of making a living than standing all day in the water washing gravel. He said that he had managed with great toil and at great expense to get a large cask of whisky to some rich diggings on that river where he broached and commenced retailing it at immense profit. On the next day, however, he noticed that his custom fell off; and, on investigation, he found that another Yankee had also rolled up a cask of whisky and was underselling him higher up the river. As a counter operation, he moved still higher up stream by a circuitous route and reopened; but it was not long before his competitor again supplanted him; and from that time on the two rivals continued running opposition and cutting each other until finally, growing wiser, they formed a combination with the intention of keeping prices up to the highest notch and jointly reaping the profits. But almost as soon as the new concern was started, a canvas house went up next door, on which was written, in large letters, "Liquor Store;" and the backbone of the monopoly was thereby effectually broken.¹

It was remarked in 1849 that while there was a great deal of drinking, there was very little regular drunkenness. Confirmed drunkards were not able to reach California, and the wrecks of subsequent days had not yet become habitual topers. Bayard Taylor, who traveled through the mining regions in 1849 for the

¹ Mountains and Molehills, 63.

express purpose of describing them, said that he met with but a single case of drunkenness; and in that instance the man's friends took away his money, deposited it in the hands of the alcalde, and then tied him to a tree, where he was left until he sobered off.¹ Most of the drinking was of the kind known as "treating," according to the unwritten code of which any person that was asked to join another in a social glass was expected to comply and on next meeting his companion was expected to return the compliment. Next to these treats, and to a great extent the natural outgrowth of them, were what were known as "bursts" or "sprees." These were constant revels day and night for several days and often a week or more at a time. They were usually noisy and sometimes riotous. Drinking brandy at half an ounce and champagne at an ounce per bottle as freely as water the revelers circulated about from groggery to store and from store to tent, wild with intoxication, shouting and hurrahing, brandishing bowie-knives in sport or shooting their rifles at any mark they fancied, with the bullets often driven but half way home and the ramrods still in the barrels. Others would leap into the saddle and yelling with excitement gallop furiously in every direction, regardless of obstacles and frequently at the imminent risk of their lives.²

A roving and reckless miner, known as Bill, who had been washing gold on the Middle Fork of the American river, had occasion in 1849 to visit Coloma. There he managed to purchase for eight dollars a bottle of French brandy, which had been laid by for medicinal purposes. Upon drawing the cork, he insisted on the persons, from whom he had bought it, assisting him in emptying the bottle. Upon their refusing several times, he dashed it violently against a tree and broke it into a thousand pieces. On another occasion in the course of his spree, while paying for something, he dropped a small lump of gold, worth some three dollars, which a by-stander picked up and offered to him. Bill, without taking it but looking at the man with a comical mixture of amazement and ill-humor, exclaimed, "Well,

¹El Dorado or Adventures in the Path of Empire, by Bayard Taylor, New York, 1878, 312.

²Johnson's California and Oregon, 165, 166.

stranger, you are a curiosity. I guess you haven't been in the diggings long. You had better keep that lump for a sample!" About the same time Bill, finding a congenial spirit in a man from Philadelphia, whence he himself hailed, induced him to join in purchasing a barrel of ale at three dollars per bottle and a case of sardines at half an ounce per box. They then, armed respectively with a bottle under each arm, a glass in one hand and a box of sardines in the other, went about almost forcing everybody they met to eat and drink; and finally they settled down by the side of what was left of their refreshments for a general evening entertainment, to which everybody was invited and welcome. Scenes like the above were of frequent occurrence. But sometimes the dissipation wound up with a quarrel or a fight and sometimes bloodshed. Practical joking of the roughest character was also occasionally indulged in. An instance is related of a party of roistering mountain blades getting very full one evening in 1849, when one of them unperceived emptied a can of alcohol over the head of another, who was somewhat of a bully, and, seizing a candle, set it ablaze. In an instant, "Man on fire! Man on fire! Put him out! Put him out!" was shouted on all sides; and put him out his companions did with a vengeance—many of them embracing the opportunity, in extinguishing the fire, of paying off old scores and effectually curing the bully of any further propensity to indulge in bluster and insolence.¹

Rev. William Taylor, or Father Taylor as he was usually called, a Methodist street preacher, who made his way into California in 1849, said that he preached one Sunday morning at Long Bar on the North Fork of Feather river to a large audience; and he was encouraged by what he saw to expect a very much larger one in the afternoon. But when afternoon came he found a congregation of only twenty persons, and everybody else had become drunk. Taylor's notion seems to have been that he had been singled out to shed light upon the world and that it was a great sin for any one to absent himself from religious services. In his denunciations of Sabbath breakers, he called attention to a blacksmith, whom he described as "an excellent man, well

¹Johnson's California and Oregon, 167-169.

spoken of by everybody, the best man in the mountains," but who confessed to working at his forge on Sunday for the accommodation of the miners that came into town only on that day and had to have their work done then or not at all. "Oh shades of the fathers," exclaimed Taylor, "if this is the best man in these mountains, the Lord pity the worst!" But no one appeared to be much disturbed by what Father Taylor said. On the contrary the persons denounced were rather amused and enjoyed it. At Coloma, for instance, in the summer of 1849, according to Taylor's report, two preachers, one of them being Rev. William Roberts of Oregon and the other Rev. Mr. Dawson from the Sandwich Islands, held forth to a large crowd. The former was especially severe on gambling. After the service a collection of one hundred and thirty dollars was taken up for the speakers. In the hat was found a twenty and a ten dollar piece carefully folded in paper on which was written, "I design the twenty dollars for Mr. Roberts because he fearlessly dealt out the truth against the gamblers. The ten dollars are for Mr. Dawson," and signed by the leading gambler in the town.¹

Mrs. Laura A. K. Clapp, writing under the nom de plume of "Shirley," has given an account of a miners' burst at Indian Bar on the east branch of the North Fork of Feather river on Christmas, 1851. It must be recollected that the Christmas season in that locality meant deep snow, cessation of work and isolation for months without regular occupation or amusement. The people of that bar and its neighborhood, as Shirley described them, were among the most generous, hospitable, intelligent and industrious in the world. On Christmas evening at nine o'clock, she proceeded to say, they had an oyster and champagne supper, enlivened with toasts, songs and speeches, at the "Humboldt House," which was the chief hotel of the place. After the supper they commenced to dance and danced all that night and continued dancing and carousing for three days, growing wilder and noisier every hour. Some never slept during the entire time. On the fourth day they had got past dancing; and, lying in mellow heaps about the bar-room floor, they commenced a most

¹ California Life Illustrated, by William Taylor, New York, 1858, 53, 288, 289.

unearthly howling—some bellowing like bulls, some barking like dogs and some hissing like serpents and geese. Many were too far gone to imitate anything but their own animalized selves. The scene was an illustration of the fabled transformations of Circe—all were swine. And yet among these bacchanals were some of the most respectable and respected men in that part of the country. Many of them had resided there for a year and upwards and had never been intoxicated before. But it seemed as if they had been suddenly seized with an unaccountable mania for pouring liquor down their throats and everything conspired to foster and increase the propensity. Even those who kept themselves aloof from these excesses—and there were a number who did so—were not allowed to enjoy their sobriety in peace. On the contrary the revelers formed themselves into a mock committee of vigilance; and when one of the unfortunate sober-sides fell into their clutches he was haled before a mock court on some ridiculous charge and invariably sentenced to “treat the crowd,” to which he generally had the good sense cheerfully to submit. But even this kind of sport palled at last and before the end of the holiday week the fire gave out from sheer exhaustion. On New Year’s day, however, there being a grand dinner at Rich Bar, the excitement broke out afresh and, if possible, in a worse manner than ever. The same scenes, only in a more or less aggravated form in proportion as the strength of the actors held out, were repeated at Smith’s Bar and other places along the river.¹

J. D. Borthwick, who wrote an account of the condition of things a year or two later, said that in his time there was a great number of “loafers” or men who worked not more than perhaps one day in the week and spent the rest of their time in bar-rooms, playing cards and drinking whisky. They led a listless life of mild dissipation, for they never had money enough to get very drunk. They were nearly always in debt for their board and liquor; but, when hard pressed to pay up, they would hire out for a day or two to make enough for their immediate wants and then return to their old life until again called to account. Borthwick added that he never, in any part of the mines, found a

¹ Pioneer Magazine, III, 80–82.

store or boarding-house that was not haunted by at least a few men of this kind. There was another class of men in his time, displaying more energy and character in their dissipation, who went on regular periodical sprees. They would mine steadily for a month or two, saving up their money, and then set to work, apparently with the object of getting rid of it in drunken revelry as rapidly as possible. If they were old sailors, as was often the case, they generally commenced by imagining themselves just come ashore from a long voyage and rigging themselves out in new suits of clothes. They would then go round to all the bar-rooms and insist upon everybody found there drinking with them, at the same time confidentially but quite unnecessarily giving the information that they were "on a spree." Of course they were soon drunk; but before being too much intoxicated, they would as a rule lose the greater part of their money at the gaming tables. Then cursing their ill luck they would console themselves with a rapid succession of drinks; next pick a quarrel with somebody that was not interfering with them, get a drubbing and be ultimately rolled off into a corner to enjoy the more passive phases of their debauch. On waking next morning, instead of giving themselves time to get sober, they would go at it again and keep on for a week—daily confidentially and affectionately drunk in the forenoon, fighting drunk in the afternoon and dead-drunk at night. The next week they would gradually sober off and, recovering their senses, return to their work without a cent in their pockets but quite contented and happy with having had what they considered a good time. Four or five hundred dollars was by no means an unusual sum for a man to spend on such an occasion, even without losing much at the gaming table. The height of enjoyment for such a man was every few minutes to "treat the crowd;" and at that business a large sum of money disappeared very rapidly.¹

Every possible luxury connected with drinking, procurable in California, could be found in the mines; and there was hardly any drink in the world too rare or too expensive for importation into that paradise of indulgence. It is doubtful whether there ever was before so ready a market for the costliest brandies

¹ Borthwick's *Three Years in California*, 192, 193.

and most exquisite champagnes; and no business afforded such profits as the liquor business. Many of the largest fortunes in California were made, or at least got their start, in this traffic. Hardly a team left Sacramento or Stockton or a train threaded the mountain trails that did not carry more or less of spirituous or malt drink; and hardly a man lived or worked in the mines that did not contribute to some extent to the fortunes of those who managed its importation and distribution. Many of the men, who considered it a piece of wicked extravagance to buy bread, because they could save a few dimes by making it themselves, thought nothing of spending from fifteen to twenty dollars a night with their friends in the bar-room. Shirley relates that while she was writing in her log-cabin at Indian Bar in February, 1852, there was a perfect Pelion-upon-Ossa-like pile of empty bottles, which had contained liquor, lying in front of her window.¹

The use of so much intoxicating drink in the course of a few years naturally produced a number of drunkards, varying in the depth of their degradation from regular dram-drinkers to the sots that wallowed in the mire. The "descensus Averni" with these men was always sure, but it was in some cases much slower or much further drawn out than in others. While delirium tremens became so frequent a disease that there was supposed in certain quarters to be something in the climate of California peculiarly provocative of it,² and many succumbed to its attacks after a few seasons, others kept on for ten, twenty, thirty or even forty years and only then fell victims in their unequal fight with King Alcohol. Just as gambling, if persisted in for any length of time, was certain to rob a man of his money, so drinking was certain to rob him of his brains; and it was and is one of the most melancholy subjects of contemplation to look back and reckon up the number of bright and brilliant minds among the early population who, to use the common language of the day, were "their own worst enemies." If a temperance advocate were to give anything like a truthful account and full list of the victims, he would be likely to have much greater effect than any imaginary pictures of drunkards' homes or other bursts of

¹ Pioneer Magazine, III, 147.

² Borthwick's Three Years in California, 69.

impassioned eloquence. And, unfortunately, the temperance advocate finds in California to this day, and in great part as a result of the license of earlier days, as much excuse for his existence and toleration, perhaps, as in any other part of the United States.

But even including those who were so much addicted to gambling and drinking as to deserve the name of gamblers or drunkards—and as soon as they became such they no longer counted among the heroes of the early years—it may still be reiterated that the pioneers were the most active, industrious and enterprising body of men, in proportion to their numbers, that was ever thrown together to form a new community. Four-fifths of them were young men, between eighteen and thirty-five years of age; and they came from all sections of the country and many from foreign countries. They all came to labor, or found, when they got to the mines, that to keep on an equality with their neighbors, they had to labor. Next to the tendency of life in the mining regions to remove all restraints and bring into prominence all the vices that were lurking, perhaps unknown to themselves, in the breasts of many of the first comers, one of the most noticeable features of the times was the extraordinary leveling tendency of that life—a tendency upon the effects of which have been based to a great extent the readjustments and developments on new lines that have constituted the peculiarities of Californian civilization. Every man, finding every other man compelled to labor, found himself the equal of every other man; and, as the labor required was physical instead of mental, the usual superiority of head-workers over hand-workers disappeared entirely. This condition of things lasted several years. Men who had been governors and legislators and judges in the old states worked by the side of outlaws and convicts; scholars and students by the side of men who could not read or write; those who had been masters by the side of those who had been slaves; old social distinctions were obliterated; everybody did business on his own account, and not one man in ten was the employee and much less the servant of another.¹

¹ *Pioneer Magazine*, III, 132.

One effect of this leveling principle, especially in the very early days when gold could be procured in quantities by any one who would work for it, was to elevate, at least in his own opinion, what may be called the low-grade man. With gold in his purse or lying within easy reach, he felt himself the equal of anybody and the superior of everybody who had not as much strength and physical endurance as himself. A striking instance of this kind of elevation occurred at San Francisco in the latter end of 1848. Captain Joseph L. Folsom, who was in charge of the United States quartermaster's department at that place, endeavored to hire a number of men to handle stores in a public warehouse. After searching in vain for several hours, his agent saw a man standing on the dock, who did not seem to be blessed with a redundancy of this world's gear and, it was thought, would be glad of a job. He wore a slouched hat without a crown, a dilapidated buckskin hunting frock, a very uncleanly red flannel shirt, pantaloons hanging in tatters, one foot covered with an old shoe and the other with an old moccasin, both sadly the worse for wear. When asked if he wanted employment, he answered in the affirmative. But when informed what he was expected to do, he replied, "It is not that kind of work, sir, that I want. I want to work in the mines, sir." As he said this he hauled out of his buckskin frock a bag containing what appeared to be about two quarts of gold-dust and continued, "Look here, stranger, do you see this? This bag contains gold-dust. Do you suppose I am going to make a nigger of myself, handling boxes and barrels for eight or ten dollars a day? I should think not, stranger!" And lifting his nose in the air the independent fellow, that would not make a nigger of himself, strode contemptuously away. Nor was this a solitary instance of this kind of feeling. According to Folsom, who had good opportunities of observation, similar cases, varied only in minor circumstances, occurred daily and almost hourly.¹

The more common and general effect of the condition of things in the early days of California, however, was to level

¹ Letter of Joseph L. Folsom to U. S. Quartermaster-general, dated San Francisco, October 8, 1848, in Appendix to *California and its Gold Regions*, by Fayette Robinson, New York, 1849, 135.

pride and everything like aristocracy of employment. It was necessary for every one, if he wished to live and keep up with others, to work with his hands; and it made little difference what the work was so long as it was of a kind that was in demand. Instances were frequent in which men, who had been prominent as legislators in the eastern states or as lawyers, physicians, clergymen or merchants, engaged in such work as driving oxen or mules, cooking for messes, making hay, hauling wood and in fact every description of day's labor and even menial services.¹ Some of the employments in which they engaged were very different from the business for which they had been educated. A very prominent lawyer, for example, who afterwards occupied one of the highest judicial positions in the United States, is said to have peddled portemonnaies, and another, who afterwards enjoyed a very lucrative practice and became wealthy, fiddled in a gambling saloon. Instances were not uncommon of men of the same class acting as cooks and waiters in restaurants.² William H. Hatch, a Methodist preacher, found himself obliged for a while to set the table and wash the dishes of a mechanics' boarding house. Father Taylor knew a presiding elder who used to roll up his sleeves and spend a day over the wash-tub as regularly as he went to quarterly meeting; and he himself occasionally, in intervals of preaching, turned out washings of clothes or baked batches of bread; and he added that he considered he understood the details of kitchen work better than he did book-making—which latter remark, however, may have been very true and yet not proved him a great cook.³ Some of the employments in which men engaged were not creditable to them. One of the faro dealers in the Bella Union gambling saloon of San Francisco in 1849 had been an eloquent preacher;⁴ and according to Joseph A. Benton, himself a preacher, there were a number of the cloth who sold liquor,

¹ Life on the Plains and among the Diggings, by A. Delano, Auburn and Buffalo, 1854, 242.

² Men and Memories of San Francisco in the spring of '50, by T. A. Barry and C. A. Patten, San Francisco, 1873, 178, 179.

³ Taylor's California Life Illustrated, 59, 118.

⁴ Barry and Patten's Men and Memories of San Francisco, 47, 49.

but there was another cause in the severity of the winter of 1849 and 1850, which in the first place prevented supplies from reaching the mines that were remotely scattered throughout the mountains and in the next place, and as a consequence of the want of supplies, forced thousands of men to abandon the mines and seek refuge in the cities. The lack of remunerative employment in the cities on the other hand, helped on to a greater or less degree doubtless by depraved morals and bad examples, induced many to resort to stealing for a subsistence; and that extraordinary career of crime commenced which made California as famous in this respect as it was in many more creditable ones. In some places large bands of thieves were organized; and it did not take long for larceny, and particularly of cattle, horses and mules, to be carried on to such an extent and with such a degree of system as to almost resemble regular and legitimate business. Delano said that a young man of his acquaintance, a wild and daring fellow, who would doubtless have been worth much more in money if he had consented to the employment, was on one occasion offered seven hundred dollars per month to steal horses and mules. Though he declined, there were plenty of others, as may readily be imagined, to engage in the nefarious occupation; and as a natural consequence—things growing rapidly worse all the time—the most atrocious crimes, including murder, became of almost daily occurrence and created a demand and in fact a necessity for those vigilance committees and that lynch law, which will presently require attention and which, it may be said in passing, acquired a development and character in California elsewhere unknown.¹

¹ Delano's *Life on the Plains*, 251, 268, 360, 361.

CHAPTER VII.

CHARACTERISTICS OF EARLY MINERS (CONTINUED).

THE same circumstances of the early mining days that tended to throw men upon their own resources and render them sturdy and independent, tended also to bring out in strong relief their individual peculiarities and idiosyncrasies. There were a few of the old foreign residents, who like most of the native Californians did not care about going to the mines for the reason that they preferred the idle and easy life of the stock ranchos to the active and busy toil of the gold diggings. These men looked back with regret upon the days when hides and tallow constituted the only wealth, when there were no fences from one end of the country to the other, and the almost unlimited lands fit for cultivation were unbroken by a single furrow. A good representative of this class of the community was William D. Foxen, an old Englishman, who lived some miles north of the Santa Inéz Mountains in what is now Santa Barbara county and about eighteen miles easterly from the Mission of Santa Inéz. He had come to the country in 1826, turned Catholic, married a Mexican or native Californian woman, with whom he had eighteen children, eleven of them living in 1875, and had managed to acquire the rancho of Tinaquaic, where he resided, consisting of two square leagues or upwards of eight thousand eight hundred acres of land. He was entirely uneducated, so much so that when he became naturalized as a Mexican citizen in 1837 another person had to write his name for him; and it was principally, perhaps, for this reason that he was as often called Foxon as Foxen. His Christian name likewise was somewhat uncertain, being sometimes given as Benjamin and sometimes as Julian; but the name under which he became naturalized, and under which he was baptized into the Catholic Church, was Guillermo Domingo.¹

¹Cal. Archives, D. S. P. XIX, 428-431.

Foxen had some of the best land in the country and his herds and flocks were numbered by thousands; yet he never had any milk or butter or anything into which milk entered as an ingredient; nor had he any fruit of any kind. He had nothing that could be called a garden and nothing that indicated the raising of vegetables. When interrogated upon the subject, he answered that it was too windy to raise fruit; that he had tried it two or three times, and, in substance, that as he had failed, it was useless for anybody else to try. When asked about milk, he answered that he supposed he might use a cow or two for that purpose and have milk and butter; but that having sheep corralled near by, if he kept cows, he would be obliged to rise early and get them out of the way before the sheep were let out, which would occasion a great deal of trouble. He therefore lived on meat and bread without vegetables or butter or anything else to vary the bill of fare except a few eggs, tortillas, black coffee or tea and perhaps frijoles. To make up for quality, however, quantity of food was unlimited and the number of meals increased to four; so that there was little else to do but eat, drink and be merry. So thought and so talked the old man in after years. He regarded the coming of the Americans and their settlement of the country as a misfortune, which had not increased the content or happiness of the inhabitants. As for their enterprise and improvements, what was the use of them, if people were happier without them? The old days, when there were plenty of Indians and grizzly bears and other wild beasts, were the true "golden age." There never had been a people that lived so full of enjoyment and satisfaction as the Californians under Spanish and Mexican sway. The delightful climate and fertile soil had made it easy to support life and what they had was shared by all who needed it. The coming of the Americans on the other hand destroyed the good old days and introduced in their stead selfishness and greed of gain and all the thousand ills that follow in their wake.¹

But many, perhaps most of the old foreign residents, who had drifted into the country before the times of the last two Mexican governors or, in other words, before the period when

¹Two Years in California, by Mary Cone, Chicago, 1876, 93-95.

the American element began to be seen and felt as an important factor in the affairs of California, were active and enterprising men and contributed largely to the development and progress of the country. Among the most prominent and most widely known of these were such men as Abel Stearns, Alfred Robinson, John J. Warner, Thomas O. Larkin, Nathan Spear, Dr. John Marsh, William D. M. Howard, John A. Sutter, John Bidwell and Pearson B. Reading; but there were others, not so well known, who were quite as deserving of respect and credit. One of these, for instance, was Jean Louis Vignes, a Frenchman, who came to the country about the year 1830. He had landed first at Monterey, from there went to San Pedro and thence to Los Angeles, where he established himself permanently. He very soon turned his attention to the cultivation of the grape and, for the purpose of improving on the old mission product, he imported different new varieties from France, causing the cuttings to be sent first to Boston and thence forwarded to him by the trading vessels that were dispatched every year or two from that port. He also had much to do with the growing of oranges at Los Angeles; and in the course of a few years he possessed the largest vineyard and orchard and made the most and best wine in California. He was a great believer in the future of the country and particularly in the future of the wine and orange industries, expressing his belief almost from the beginning that the day would come when California would rival France in wine production not only in quantity but also in quality and not even excepting champagne. In 1843, when Commodore Jones and a number of his officers visited Governor Micheltorena at Los Angeles to express regret for their unauthorized seizure of Monterey, they were entertained with a ball, a banquet and many other attentions on the part of the governor and residents of Los Angeles, among which was a visit to and entertainment by Don Jean Louis Vignes. He of course produced the best samples from his ample cellars and thereby delighted his visitors; and, when they left with the intention of soon returning to the United States, he presented several barrels of his choicest brands and requested that some might be forwarded to the president at Washington that he might know what excellent

wine was made in California. At that time Vignes was generally known as "Don Luis del Aliso" from the circumstance that a very large and splendid sycamore tree, called by some of the old Californians an "aliso," grew in front of his house, in the preservation and growth of which he took so extraordinary an interest that his neighbors considered him in love with it and gave him its name.¹ He was instrumental in having many industrious and enterprising French citizens immigrate to the country; and, in thus founding what became the French element in the Californian commonwealth and in other respects, he exercised much influence for good. He died in 1862 at the age of upwards of eighty years greatly respected and deserving of respect.

In the same category with Vignes was William Wolfskill, who was equally active and enterprising and became equally famous as the promoter, if not the starter, of one of the most important industries of the country. While Vignes turned his attention more particularly to grape culture and wine making, Wolfskill devoted himself to the growing of oranges and other orchard fruits. He may not have been as social in his instincts, nor as hilarious in his disposition, nor as generally popular with all sorts of people as Vignes; but he was quite as much devoted to his vocation and quite as worthy of respect and credit. He continued faithfully at labor, enamored of his trees and seeking by every means in his power to improve and perfect them, till his death in 1866,—already by that time seeing, though perhaps not fully appreciating, in the spectacle of the gardens and orchards started in every direction around him, the effect and influence of his example and success: a spectacle that has been broadening and enlarging more and more ever since. Both these men, Vignes and Wolfskill, played an important part in the development of California and of much that is most admirable in Californian character. They were very far indeed from giving themselves up to the idle, listless, "dolce-far-niente" life of the native Californians or from believing with old Foxen in his supposed "golden age" or "good old times."

¹Sixty Years in California, by William Heath Davis, San Francisco, 1889, 168-172.

Another of the old foreign residents, now almost forgotten, who deserved credit as an active and enterprising man, was William Sturgis Hinckley. He was a native of Massachusetts and nephew of William Sturgis of the firm of Bryant & Sturgis, which carried on most of the mercantile business between Boston and California before the American occupation. He became a permanent resident in 1840, though he had come to the country in one of his uncle's vessels some years previously. In 1842 he became naturalized and married a Californian woman; and in 1844 he was elected first alcalde of Yerba Buena—an office which he filled with much credit to himself and satisfaction to his neighbors. Though American by birth he espoused the cause of Mexico after his naturalization and, in the excitement and heated discussions preceding the time of his death in June, 1846, he was always, as became an honest man, active and outspoken in favor of the country of his adoption. But his principal claim to remembrance was the fact that he was one of the first, if not the very first, to exhibit a spirit of public enterprise, which was so unusual at its time that it literally surprised everybody. Between the ancient village of Yerba Buena and Telegraph Hill, in what is now the block bounded by Montgomery, Washington, Kearny and Jackson streets, there used to be a salt-water lagoon or lake, connected with the bay of San Francisco by a small slough or creek. The entire region has all long since been filled up and covered with large buildings; but in 1844 the lagoon existed and the tide ebbed and flowed regularly out and in. At all stages there was more or less water in the creek; so that persons, wishing to pass in a direct line between the village and the harbor-landing at the eastern point of Telegraph Hill, were obliged to jump or wade or get across the best way they could. Such had been the case when the village was started in 1835 and such it had continued and probably would have continued, perhaps until the American conquest, if it had not been for Hinckley, who as alcalde caused a bridge to be built across the creek, thereby adding much to the convenience of everybody who had occasion to cross. It was in one sense a small matter, or would be considered such now; but in those days it was so extraordinary that it was regarded as a very great public

improvement and people came with their wives and children from considerable distances to contemplate and wonder over the remarkable structure.¹

Thus in the old Mexican period every man who could be called active and enterprising and as such was calculated to exercise any considerable amount of influence or leave much impression behind him, was, so to speak, an exception to the general rule. But when the great army of American settlers began to arrive in 1844 and particularly when the miners began to flock in by thousands in 1849, the rule changed and almost everybody was active and enterprising. Hence the extraordinary rapidity with which California was Americanized and the unparalleled growth of the country into statehood that has already been depicted. Men, equal if not superior to Stearns and Robinson, Bidwell and Reading, Wolfskill and Hinckley in the vigor and extent of their business undertakings, were common all over the land, digging and delving, driving shafts and tunnels, running ditches, building dams, turning river courses and forging ahead with unexampled ardor in everything that could conduce to the discovery and production of gold. At the same time there were amongst these busy and industrious men, as has already been stated, some of very strong and marked individuality; a notice more or less extended of at least a few of whom, either because of the influence exercised by them upon others or because of the influence exercised by others upon them and thus exhibiting the tendencies and effects of the times, is necessary to anything like a correct understanding of the condition of affairs. Fiction, as is well known, has invested the old mining days and the old mining characters with extraordinarily striking and interesting traits, which have attracted the attention of the world. On the other hand, it is important to know, as a matter of fact, something about what were the real characters and the actual incidents that formed the foundation on which so attractive a superstructure was raised.

One of the most marked and best characteristics of the old miners was their kindness. An affecting incident illustrative of this occurred in 1848. It was at a little camp, the name of which

¹ Davis' *Sixty Years in California*, 205-209.

is not given and perhaps is not important. The day was apparently a hot one and not very far advanced towards the cool of the evening, when a youth of sixteen came limping along, foot-sore, weary, hungry and penniless. There were at least thirty sturdy and robust miners at work in the ravine; and it may be well believed they were cheerful, probably now and then joined in a chorus or laughed at a good joke. The lad, as he saw and heard them, sat down upon the bank and watched them in silence—his face telling the sad story of his fortunes. Though he said nothing, he was not unobserved. At length one of the miners, a stalwart fellow, pointing up to the poor boy on the bank, exclaimed to his companions, "Boys, I'll work an hour for that chap, if you will." All answered in the affirmative; and picks and shovels were plied with even more activity than before. At the end of an hour a hundred dollars' worth of gold-dust was poured into the youth's handkerchief. As this was done, the miners, who had crowded around the grateful boy, made out a list of tools and necessaries and said to him, "You go now and buy these things and come back. We'll have a good claim staked out for you. Then you've got to paddle for yourself."¹ Borthwick relates of a period several years later that, while traveling on the Middle Yuba, he overtook a young fellow on his way from Downieville to the camp of some friends about thirty miles distant. In the evening they stopped at the same public house; but at the supper table the young man did not make his appearance. Upon inquiry as to the reason of this unusual conduct, it was ascertained that he had no money and was too sensitive either to make his condition known or to take a meal without paying for it. But the moment this was found out, not only the other guests but the landlord himself rated him soundly on the absurdity of his going off supperless merely because he happened at the time to be "strapped" or "dead-broke," as the impecunious condition was variously called; insisted upon his accepting the hospitality of the house, and wound up with stories of how they had, every man of them, been at one time or another in his California experience in the same predicament and

¹ Shinn's *Mining Camps*, III.

had invariably, upon frankly stating the fact, been made welcome to everything he needed.¹

Another characteristic of the old miners of the same general nature was their extraordinary tenderness for children. In the autumn of 1849 a beautiful, flaxen-haired little girl, about three years old, was often seen playing upon the veranda of a house in San Francisco on Clay street, between Montgomery and Kearny, and near the business center of the city. On such occasions it was usual for a crowd of rough miners to collect on the opposite side of the street and gaze on the to them unaccustomed and interesting sight—in many cases with tears running down their bronzed cheeks.² At Georgetown, El Dorado county, about the same time, a little girl of five years, the child of a Missourian who kept an eating house, so attracted the hard-fisted miners of the neighborhood by her infantile grace that they presented her with nuggets and dust, amounting altogether to a pint cup full of gold.³ These were not isolated cases; but it was more or less the same in every part of the country, when clean, pretty and well-behaved children first made their appearance. It was no uncommon thing to see handsome children almost worshiped: men would often follow them in the streets with gifts and benedictions.⁴ The same sentiment was also exhibited in the circuses and theatrical representations throughout the land; for one of the chief attractions of nearly every troop that met with success was its little child, usually styled "Californian Pet," whose appearance on the stage almost invariably called forth from an audience of miners a shower of coin as well as of applause.⁵ And next to children to open the hearts of the audiences of that day and awaken tender memories of distant firesides was the singing, by sweet and sympathetic voices, of the simple, old and familiar songs and ballads that they had heard over and over again and perhaps hummed in their own childhood. At the Downieville theater in 1851 a lady belonging to a traveling concert troop did

¹ Borthwick's *Three Years in California*, 254-256.

² Burnett's *Recollections and Opinions of an Old Pioneer*, 302.

³ *Golden Dreams and Leaden Realities*, 221.

⁴ See Barry and Patten's *Men and Memories*, 139.

⁵ See *My First Holiday*, etc., by Caroline H. Dall, Boston, 1881, 201.

this so successfully that in the enthusiasm that followed her efforts an old miner got up and, on behalf of the miners in general, made her a speech of thanks and presented her with a purse containing five hundred dollars worth of gold specimens.¹

The sentiment toward women in the early mining days was quite as marked as that in reference to children; but exhibited itself, as was natural, in a noisier and more demonstrative manner. In the 1848 and 1849 periods there were very few refined or respectable women in the country, and in most of the mining regions there were no women at all until years afterwards. But their absence did not prevent men from thinking about them and in various ways displaying their regard for the opposite sex. In 1851 a miner of Tuttletown on the Stanislaus river, one of the places as yet unblessed with the presence of women, having managed in some unknown manner to get hold of a small, shapely and well-constructed lady's boot, was accustomed to hold it up before an admiring crowd and, after listening for some time to laudatory expressions and offers to purchase, close the exhibition with the sententious remark, "Now, see here, boys—the chunk ain't found that can buy this boot. 'Tain't for sale—no how!"² In 1852 a ball took place at the principal hotel in Angel's Camp, where, though there were no women present for the reason that there were no women in the place, dancing was kept up with great spirit till a late hour. The music was furnished by two amateur performers, one of whom played the violin and the other the flute. It was a part of the duty of the fiddler to call the figures; and, accordingly at proper intervals, as the dance progressed, his voice was heard above the music and conversation and laughter, shouting, "Swing partners," "All hands round," "Ladies' chain," and so on through all the legitimate figures, when, out of consideration for the natural thirst of the participants and for the good of the house, he invariably finished, and in a louder and more emphatic tone than usual, with the supplementary call of, "Promenade to the bar and treat your partners."

To fully conceive the strange spectacle thus presented, it is to

¹ Borthwick's *Three Years in California*, 217, 218.

² Marryat's *Mountains and Molehills*, 262, 263.

be remembered that the dancers were all long-bearded men in flannel shirts and heavy boots, with revolvers and bowie-knives glancing in their belts; and that they went through all the steps and figures, not only with hearty enjoyment depicted upon their sun-burnt faces but with much spirit and often even with a great deal of grace in their movements; while a crowd of similarly rough-looking spectators stood around, cheering them on to greater efforts and occasionally quietly dancing a step or two on their own account by way of accompaniment. Dances such as these were very common throughout the mines, especially in the smaller camps where there were no such general and well-provided places of resort as the gambling and drinking saloons of the larger towns. In almost any place, wherever miners congregated and a fiddle could be found to play, there was no difficulty in getting up a dance. Waltzes and polkas were not so much in fashion as the "lancers," which appeared to be generally well known and was more social, besides affording greater room to show off in terpsichorean flourishes and displays; for the miners danced, as they did everything else, with all their might; and to go through all the figures of the lancers in such company and in the way in which they usually did so was very severe exercise and fully prepared them for the call to refreshments at the end of each separate dance. The absence of female dancers was a difficulty which was overcome by a general understanding that every gentleman, who wore a large white patch on his pantaloons, should be considered a lady. Such being the understanding, these patches became rather fashionable than otherwise and consisted usually of large squares of canvas, cut from old flour bags, showing brightly on a dark ground, so that the "ladies" of the parties were as conspicuous as if they had been surrounded by the ordinary quantities of muslin and gauze.¹

When refined and reputable women first made their appearance on the streets of San Francisco there was much excitement. They were not only gazed at but they were stared at—not disrespectfully, it is true, but with too much intentness to be pleasant to them. Men crowded to the wharves when they arrived and lingered in places where they were expected to pass. One

¹ Borthwick's *Three Years in California*, 319-321.

day at a crowded sale in James L. Riddle & Co.'s auction rooms, some one, in a momentary pause of the crier's voice, shouted, "Two ladies going along the sidewalk!" Instantly the crowd of purchasers rushed out pell-mell, swarming the street so suddenly and in such numbers that the unconscious objects of the commotion were startled with the impression that there was either a fire or an earthquake.¹ Another and still better anecdote was told of a young miner, who lived with an old uncle and kept bachelors' hall in 1849 in a remote camp in the mountains. The uncle had a mule, called Jack, which was their only means of communication with the outside world and their only resource for locomotion in case of trouble or difficulty. One evening the young man, learning that a lady had arrived at another mining camp, some forty miles distant, went to his uncle and said that he desired the loan of Jack for the next day or two. "What do you want with him, my son?" asked the uncle. "Well," answered the young man, "I have just learned that there is a lady over at so-and-so camp; and I can not resist the desire to go and see and talk with her." "All right," replied the uncle, "you can take the mule and make the lady a visit." Next morning by daylight, accordingly, the young man was off and did not stop until he pulled up in front of the lady's place of sojourn. She proved to be a married woman of excellent character and treated the young man with great kindness and consideration, esteeming his visit, as it was, a sincere compliment to her sex.²

When the first white woman was seen coming down the long hill at Downieville in Sierra county, the miners of that place formed in procession and escorted her with shouts and hurrahs of welcome. A year or two afterwards, when Signora Elise Biscaccianti, in the course of a concert tour, visited the same place, the miners again turned out in procession and, as an evidence of their welcome to the lady, carried her piano down the big hill. But the most hearty and whole-souled demonstration of the kind, perhaps, was that of the miners of Cañon Creek, a mining camp near Georgia Slide and at the bottom of another big hill. On the arrival of the first woman at the top of the

¹ Barry and Patten's *Men and Memories*, 138, 139.

² Burnett's *Recollections and Opinions*, 301-303.

mountain, which overlooked Cañon Creek, all the miners at work there desisted from their labors and congregated around where she was sitting on her mule. Their delight was so great that they lifted the lady and it is said, perhaps with some exaggeration, the mule also on which she was seated, and with ringing cheers carried them, as if in triumph, down the mountain.¹

Before white women became plentiful in the country, some of the early residents married Indian women. Most of these men were coarse in manners and low in character; but some were in various respects superior men. One of the latter was Hugo Reid, a Scotchman, who came to the country in 1832, settled at Santa Anita, eight or nine miles east of Los Angeles, and became a very prominent and influential man in Californian affairs. He was well educated and scholarly and, among other things, wrote a number of interesting papers concerning the Indians and early history of the country. It was said of him that he had been jilted in his native country and came to California in disgust, at the same time vowing that he would marry some one of the same name as she who had slighted him. After arriving, he fell in, at or near the mission of San Gabriel, with a woman of pure Indian blood, who had received in baptism the name of Victoria; and, as she was not distasteful to his fancy and her name was the same as that of his former sweetheart, he married her.² Another of these men was an Irishman named Murphy, who kept a trading post in Calaveras county and gave his name to Murphy's Camp. He had married the sister of the capitanejo or head man of a neighboring rancheria; and, by means of this connection and the influence thereby acquired, he induced the Indians to dig gold for him and make him wealthy in return for provisions and clothing furnished them from his store.³ But the most prominent and perhaps the most able of all these "squaw-men," as they were ordinarily called, was James D. Savage, the discoverer of Yosemite valley. He had been a companion of the Rev. James Woods of Woods' Creek in 1848, but afterwards located on the South Fork of the Merced river, where in 1850 he established a

¹ Mrs. D. B. Bates' Incidents on Land and Water, 217, 218.

² Davis' Sixty Years in California, 196, 197.

³ Ryan's Personal Adventures, II, 80.

trading post and, like Murphy, employed a great number of Indians to work for him at gold digging. Instead, however, of marrying only one squaw, like Murphy, he married five, all of whom were daughters of Indian potentates; and, by means of the connections thus made with different rancherias, he wielded a very wide-spread influence among the Mariposa Indians and acquired great wealth. In 1851, when it became necessary to chastise the wild mountain Indians on the head-waters of the Merced river, who were found to be irreconcilable, and the Mariposa battalion was organized and mustered into the service of the state for that purpose, Savage was appointed by Governor McDougal its commander-in-chief in the field with the rank of major; and it was while leading a portion of his command into the heart of the mountains after the hostiles in the early part of 1851 that he discovered the famous valley.¹

The marriage of Indian women by white men of course involved degradation of the latter. The squaws thus espoused, notwithstanding they may have had and doubtless did have some good qualities, were nevertheless mere savages and full of the inherent vices of savagism. Though they may have been daughters of chiefs or principal men in rancherias, they were as far from being like the celebrated Pocahontas as that Pocahontas must have been unlike the popular notions in reference to her. For a white man to marry and live with a squaw as his wife amounted to an abandonment of all chance of mixing in the domestic society of other whites; and even among men alone there has always been more or less of a feeling of disgust at the mention, and still more at the presence, of those unfortunates who had fallen so low as to enter into relations of that kind. The result of such a marriage has invariably been to degrade the white to the level of the Indian and never in a single instance to elevate the Indian to anything like social equality with the whites. A striking example of the effect upon the white man of such a relation was afforded in the case of an individual who was found by the Delano party of Californian emigrants at the crossing of the Sweetwater river near South Pass in June, 1849. He

¹ Discovery of the Yosemite and the Indian War of 1851, &c., by Lafayette H. Bunnell, Chicago, 1880, 15-70.

was a well-educated man, apparently about forty years of age, with mild blue eyes and pleasing countenance; but his dress and surroundings made him look like an Indian. He had three or four squaws and a number of children, all of whom looked up to him as the head of the family. In conversation he said he had lived that kind of a life for eighteen years without having once returned to the states or within sight of civilization. When asked whether in all that time he had never felt a desire to go back, whether thoughts of home and old friends had never obtruded themselves upon him, he answered rather sadly, "Oh yes, very often. Once, about five years ago, I determined to return and made arrangements to do so; but at the last moment I could not make up my mind to leave. I sometimes think of it still and almost determine to go; but when I look at my responsibilities"—and as he spoke he glanced around at his wives and his brood of young half-breeds—"I feel obliged to give it up. You see I have my cares—and, besides, I have become so accustomed to this kind of life that I am entirely unfitted for social intercourse in refined society."¹

Much more suitable than the Indians as wives for the early comers were the Mexican women. Though many of the lower classes of these were tainted with an Indian strain, they were very far from being savages; and no man was obliged to feel himself degraded or ostracised for marrying and living with them. The daughters of some of the old Californian families were in refinement and accomplishments the peers of any of their sex; some were considered great beauties, and, as a rule, all who married good men made good wives. But for American men the proper kind of wives were of course American women; no other women on earth were their superiors and few their equals; and from the earliest times their pre-eminence was recognized and acknowledged. With some exceptions, all the adventurers of the early days carried with them attachments for, or at least tender recollections of, worthy objects of affection in their old homes; and the dream of nearly every young miner, before he learned that California was a better country than the one he had left, was to return with a plethoric bank account,

¹ Delano's Life on the Plains and among the Diggings, 113, 114.

marry a charming wife and settle down in the old country. On the other hand those, who had learned, as most soon did, that there was no other land under the sun to compare with California, if they did not send for old sweethearts, sought new ones equally as good among the reputable women who in the course of a year or two after the first rush began coming out as members of immigrating families.

The ardent sentiments thus felt and manifested by the old miners in favor of reputable females, before the scarcity was fully supplied, made the fortunes of a number of pretty servant girls. These lucky women, on account of the peculiar condition of affairs, could marry almost whom they pleased; and not a few distinguished themselves by their good judgment in securing husbands—some becoming in the course of a few years wealthy matrons and successfully vying in society with the most exclusive and aristocratic of their sex.¹ In 1849, in view of the great want of choice young women in California and the extraordinary chances for excellent matches offered them, Mrs. Eliza W. Farnham, widow of Thomas J. Farnham, a lady of intelligence and enterprise, proposed a plan of chartering a ship in one of the principal Atlantic ports and bringing out a company of from one hundred to one hundred and thirty marriageable young women of good character. The scheme was a well-intended one and might possibly under favorable circumstances have been successful; but, unfortunately, the projector took sick and her plans proved a failure. Instead of the multitudinous cargo that would probably have set the miners from one end of the country to the other in a blaze of excitement, only three ladies came out with her and the nuptial torches lighted for them were not numerous enough to cause a general conflagration.²

Sometimes, and doubtless oftener than ought to have been the case, the extraordinary attentions lavished by the old miners upon pioneer ladies caused trouble. An instance of this kind was afforded by an individual named Crockett, who in June, 1851, kept a house of entertainment on the road between Sacramento and Salmon Falls. He had a very pretty wife; but the

¹ Barry and Patten's *Men and Memories*, 129.

² Eliza W. Farnham's *California In Doors and Out*, 22-42.

possession of such a treasure, instead of humanizing or making him a happy man, appears to have kept him in a continual fever of irritation and alarm. As there was much travel back and forth along the road, it was not an unusual thing for a dozen or two of hairy miners to be gazing at or watching a chance to get a glimpse at the handsome hostess; and the more they gazed the more Crockett was worried. He was not a large man; but he carried an enormously large revolver and every now and then, when he got particularly excited, he would draw and exhibit it. A guest, who had occasion to stop for breakfast one morning, when there had been more miners along the road than common, found the jealous fellow charging around like a madman and foaming at the mouth. It took some time for him to quiet down and address his visitor; which, however, he finally did by informing him that he had just been "so riled that his skin cracked" and soon afterwards adding in a confidential tone that he was a "devilish good fellow when he was right-side up." As a proof of this statement he insisted on his guest's taking a drink with him and then proceeded to get up an excellent breakfast. Mrs. Crockett presided at the meal, but in a very nervous manner as if in expectation of being at almost any time made a target of.¹

But when respectable women became numerous and miners in general became married men, there was a very great change in the appearance of things all over the country. It was then that cottages began to be built, gardens laid out, flowers planted and homes established. Everywhere and in every respect the change made itself manifest. Tastes and habits altered; there was less low conduct and less coarse conversation; less drinking and less gambling; more neatness of dress and more refinement of manners; more civilization and more culture. The ardor and gallantry of the old times had left their indelible impress upon the character of the miners; and nowhere in the world, perhaps, were women, or are they to this day, treated with more respectful attention or consideration than in California. Without them of course the country never could have advanced in the path of progress or amounted to anything worth the name. But, on the other hand, nowhere else on the globe have deserving women been so highly valued or so universally honored.

¹ Marryat's Mountains and Molehills, 207, 208.

CHAPTER VIII.

CHARACTERISTICS OF EARLY MINERS (CONTINUED).

THE characteristics of the old miners may be further illustrated by other incidents and occurrences, which took place in the early days, and still further by an account of some of the remarkable individualities, which were developed in those times and which reflected back more or less light on the circumstances of their development. For some time after the first discoveries and while the supply of gold was believed to be inexhaustible, everybody was honest, not only because there were as yet few or no bad men in the country but also because it was not worth while to steal or to be dishonest. Gold was often left exposed without fear of its being purloined; and, if money were borrowed, it was usually borrowed on honor. The borrower expected to return the loan as soon as he conveniently could; but he did not want to be asked to do so. It was a sort of insult to dun a man for money loaned. On one occasion, for instance, in a pockety region on the Stanislaus river, one of a party of miners loaned another six ounces of gold, which was not repaid as soon as it should have been, and the lender began to talk about it. The borrower submitted to his creditor's importunity for a while but at length could stand it no longer and, exclaiming, "Just wait ten minutes and time it," he shouldered his pick-ax and rushed out to his claim. By the expiration of the ten minutes he returned bringing back more than enough gold to liquidate the debt—much to the amusement and satisfaction of the spectators.¹ On another occasion, at an unseasonable hour of the night, a miner, who had loaned a few ounces, went to his debtor's tent and asked for its return. The latter requested his visitor to sit down and wait for him, when, taking a lantern, he went out to his claim; in

¹ Ryan, II, 23.

a short time washed out sufficient gold; tied it up in a shot bag and, returning, flung it in his creditor's face.¹

Sometimes, on account of money being thus loaned upon the credit of honor, debts were paid under unexpected circumstances. An interesting instance of this kind occurred at Marysville about 1852. A lady, some thirty years of age and fine looking, landed from an up-river steamer and stopped at the Tremont House. Immediately calling for the proprietor, she told him that she had no money, as her journey from New York had cost much more than she had anticipated, and asked for a loan of twenty dollars to carry her to Downieville, where she expected to meet a relative. Though somewhat doubtful of ever seeing her or his money again, the landlord loaned the sum asked; and she went on. Five or six weeks afterwards she re-appeared before the proprietor of the Tremont House at Marysville, exclaiming, "Oh! I have been so successful!—and now I have come to pay you what I owe!" In further explanation she said that she had arrived at Downieville and found her relative, who had built her a canvas house, procured a cooking-stove, a long table and some benches; and she had commenced keeping a boarding-house. In a very short time she had thirty or forty boarders and they were each paying her twelve dollars per week. One day, while sweeping the earthen floor of her house, she noticed a glitter. Upon examination it proved to be gold and upon further search the floor was found to be full of golden particles. She at once summoned her relative; and the two, though dinner was cooking, removed table, benches and stove and went to digging. The first day they took out five hundred dollars' worth of gold, mostly in nuggets; and for a number of succeeding days they had similar success. As soon as she could think of leaving her bonanza for a couple of days, she had hastened down to Marysville to pay her respects and cancel her indebtedness.²

Surprising discoveries of gold, like the above, were not infrequent and generally brought out significant characteristics, though they did not always, as in the last instance, lead to an exhibition of such admirable traits. Near Carson's creek in 1848, for

¹ Shinn's Mining Camps, 126.

² Mrs. Bates' Incidents on Land and Water, 209-211.

example, one of a party of miners died. He had been very much respected by his companions; and they determined to give him a regular funeral. A miner of the neighborhood, who had the reputation of having been a prominent and powerful preacher in the eastern states, was called upon to officiate; and he consented to do so. After assembling and taking "drinks all around," the party proceeded with becoming gravity to the grave, which had been dug at a distance of about a hundred yards from the camp. When the spot was reached and the body lowered, the minister commenced an extempore prayer, while the crowd reverently fell upon their knees. For a while all went well; but the prayer was unnecessarily long and at last some of the congregation began, in an abstracted way, to finger the loose earth that had been thrown up from the grave. It proved to be thick with gold; and an excitement was immediately apparent in the kneeling crowd. Upon this the preacher stopped and, inquiringly asking, "Boys, what's that?" took a view of the ground for himself and, as he did so, shouted, "Gold! Gold!—and the richest kind of diggings. The congregation is dismissed!" The dead miner was taken from his auriferous grave, to be buried elsewhere, while the funeral party with the minister at their head lost no time in prospecting and staking out the new diggings.¹

Soon after the American occupation a young couple from St. Louis reached San Francisco; purchased a few fifty-vara lots at a mere nominal cost; erected a cheap building, and went into business. They had several small children. In the course of a year or two the husband and father died. The widow, being thrown upon her own resources and seeing a better opportunity of making a living for herself and her children in the mines than in the city, moved to one of the mining camps on the North Fork of the American river. As she could not sell her real estate at the time she moved away she regarded it as of no value and paid no further attention to it. In the mines it was not long before she met and married a gentleman, who was desirous of sharing his fortune with her; and the new couple, being otherwise well suited to each other and having between them a fine

¹ Marryat's *Mountains and Molehills*, 324, 325.

mining claim and a remunerative store and boarding-house, led an industrious and happy life. This was about the middle of 1849. Soon thereafter news penetrated even to that remote region of the rapid advance in the value of real estate in San Francisco. At first the lady seemed to have entirely forgotten the fifty-vara lots; but one day, when a casual visitor from San Francisco was present and spoke of the fortunes that had been made in real estate in that city, she jokingly mentioned her own property there and wondered what had become of it. The visitor, on being told its situation, informed her that it had become exceedingly valuable and in fact that she and her children were very rich. It needed but a suggestion of unlimited wealth to set them all on fire—and the husband no less than the wife and her children. They bade adieu to the mountains; sold their mining claim, store and boarding-house without caring much what they got for them, and set out for San Francisco. After stopping there only long enough to realize on some of their property, they took passage to New York, where they stopped at one of the most fashionable hotels and began spending their wealth in a style that clearly betokened they were not accustomed to it. After getting enough of "high life" in New York, they returned to San Francisco, which they found to be quite as "high toned" or "recherché," to use favorite expressions of high life, as New York. There they continued the same extravagant mode of living, spending money as if they possessed the purse of Fortunatus. But pride, prodigality, improvidence and depreciation in the value of property soon reduced them to poverty; and with the loss of fortune followed the loss of friends. It was too much for the husband to bear; he had habituated himself to such indulgences that it was impossible for him to go back to the honest toil of former days; life, as he now found it, was a burden, and he soon filled a suicide's grave. The wife and mother in a comparatively short time followed him to the shadowy realms of death, and her children became objects of public charity.¹

Gold was sometimes hoarded in the early days, though as a rule there were very few, if any, persons who could be called

¹ Statement signed "Howard," Alta California of October 30, 1858.

misers. In subsequent years there were many individuals, who were not only grasping and avaricious but also at the same time active and enterprising, so that they amassed large fortunes; and some of them were penurious and parsimonious enough to be called niggardly and miserly; but of misers in the sense of such notorieties as Daniel Dancer, Vulture Hopkins and Blewberry Jones there can hardly be said to have been any. According to one account, about the only miser in the country was a man named John P. Davidson. But taking all the facts into consideration it will be seen that, though he was a strange compound of contradictions, including some low and sordid meannesses, the term miser, in the sense referred to, could not properly be applied to him. He appears to have been a native of Ireland but had been brought up in Kentucky. It was said that he belonged to the Presbyterian church; that he attended services regularly and always on every possible occasion talked religion; but that, though well off, he could never prevail upon himself to put a copper on the plate or in the contribution box. It was further said that in a trade he invariably sought the advantage and for this purpose was always ready to lie and cheat or by some sort of trickery or cajolery induce others to lie and cheat for him. It was also said that he would take only one meal a day at his hotel but would eat enough at that meal to tide him over the other ordinary meals. And it was finally said that when the war of the rebellion broke out, he fled to England to avoid paying taxes, and that he afterwards returned and died in St. Louis, leaving eighty thousand dollars to be fought over by unlineal representatives.¹ According to another account there were two other misers in California in the early mining times, though the facts related of them still less than in the case of Davidson justified the application of the name. They were an old couple, man and wife, English by nationality, who had managed after some years of labor in California to accumulate about five thousand dollars each, with which they started back for England with the idea apparently of spending the remainder of their days in the land of their birth. They had taken passage

¹ A Picture of Pioneer Times in California, &c., by William Grey [William F. White], San Francisco, 1881, 179-193.

in one of the steamers of the Nicaragua route and doubtless traveled as cheaply as possible. They were very poorly dressed —so poorly in fact as not to be entirely decent. They carried their money in belts strapped about their bodies and refused on any account to put it in charge of the officers of the ship or otherwise to part with its custody. Upon reaching San Juan del Sur they crossed over to Virgin bay and with others got into a boat to be carried out to a small steamer that was to take them across Lake Nicaragua on their way to San Juan del Norte. But on account of some mismanagement the boat capsized and the passengers were thrown into the water. All, however, were picked up and saved, except the unfortunate old couple, who being loaded down with their gold sank and drowned before they could be reached.¹

There was hardly a section of the country that did not afford examples of surprising discoveries as the outcome of patient and persevering efforts under discouragement; and on this account it became a characteristic of the Californian miner, after thinking well of a claim and starting to work it, to persist in working it. There was so little known about the special distribution of the auriferous earth in particular localities that it was not unusual to find gold in unlooked-for places; and frequent instances occurred of inexperienced men being induced as a practical joke to dig in unpromising spots and unexpectedly upturning great treasures. A remarkable case of something of this nature, but with a taint of fraud and a spice of comedy in it, occurred at Cañon Creek near Georgia Slide in the early days. The owners of a claim there, supposing it had given out, "salted" it liberally with gold-dust and sold it to a party of newcomers for thirty-two hundred dollars. The purchasers commenced working but soon found they had been deceived. They were of course very indignant and made up their minds to stop work and thrash the sellers; but before doing so they thought they would dig a little further than their predecessors had done and see how the ground looked. They accordingly dug beyond the crevice that had been worked out and unexpectedly struck a second and exceedingly rich one, from which they got gold

¹ Mrs. Bates' *Incidents on Land and Water*, 219-222.

enough to pay for the claim and large profits besides; and the mine continued to pay well for many years afterwards.¹ Another noticeable case, very similar to the last mentioned, took place in the lower part of Placerville or Hangtown as it was then called. A miner, who had taken up a claim there and after a week or two of hard work had stripped off the top soil and nearly reached the bed-rock, made an examination in one corner and found nothing. The best thing he could do, he thought, was to sell; and, putting on a bold face and representing the claim as a rich one, at the same time making a plausible excuse for not prosecuting his work further, he offered it for sale. Presently three or four young men, entirely inexperienced in mining operations, came along and purchased on his representations, paying him his price of one hundred and fifty dollars. Early next morning they commenced work and by the middle of the afternoon, being down on the bed-rock in several places, they began washing out a few pans of earth. The seller, who had lingered around for the apparent purpose of enjoying the fun of seeing how badly he had fooled them, was very much surprised to see them wash out pan after pan, containing from ten to a hundred dollars each, and began bargaining to get back the claim. He offered more than three times what he had received; but the more he offered the more the purchasers were determined not to dispose of it. The outcome was that within about five days they took out nearly seven thousand dollars, while the seller was obliged to go off, one of the most disgusted men in California.²

The most extensive and richest discoveries, however, that were due to pluck and perseverance, were of later date and chiefly in quartz mining, which under almost any circumstances required great outlays of time, labor and capital before returns could be looked for. One of the most noteworthy of these was the case of the Hayward mine in Amador county. About 1856 Alvinza Hayward, having convinced himself of the value of the underground lode, commenced work and for several years

¹ Mining Correspondent of Bulletin, Letter of September 5, 1857.

² The Argonauts of California, &c., by C. W. Haskins, New York, 1890, 166-168.

continued sinking shafts, erecting machinery and searching for paying vein matter. He found ore; but it was poor; and before he found any better his funds were exhausted. Feeling sure that he was on the right path, he went to all his acquaintances and begged, borrowed and scraped together all the money he could and sent it to keep company with what he had already sunk in the mine. Still there was no yield; and he got into such straits that he could not even buy a pick. He had no money to pay his workmen; and one by one they withdrew —all except a couple who seemed to be infected with their employer's enthusiasm and worked on in spite of appearances. Hayward himself worked with them and suffered with them. At length, when worn out bodily and mentally and on the point of giving up in despair, he struck the main lode. Years of privation had passed in the meantime; but the reward had at last come; and all was now plain sailing. Money is never wanting where money is in plain sight. In a very short time Hayward's income was fifty thousand dollars a month and his wealth ran up into the millions. Among the acquaintances, who had stuck by him through thick and thin, was a man named A. N. Coleman. He kept a store at Amador and had let Hayward have provisions on credit during all the days of his struggle. Hayward seems to have felt grateful, and in return, as soon as he became very rich, invited Coleman to San Francisco; procured for him the agency of a large coal-oil establishment; set him up in business with himself as partner, and put into the concern a capital of two hundred thousand dollars. The new firm of Hayward & Coleman was left to the sole charge of Coleman and for some time it prospered exceedingly.

But it was not long before Coleman began to feel dwarfed by the loud name and reputation that Hayward had acquired for business acumen and successful shrewdness. Everything in fact that Hayward touched seemed to turn to gold; but Coleman insisted that it was mere luck, and he appears to have really thought so. Hayward had invested largely and made a great deal of money in the San Francisco real-estate market, though the largest field of his operations was the mining-stock exchange, which to a great extent he was able to control by the sheer

weight of his capital and in which, for that reason, he made his largest ventures and greatest gains. Coleman, entertaining the opinions he did, thought he could do likewise. He accordingly launched on the same perilous sea, but without the skill and foresight of Hayward; and the result was that at the end of a year all his property was gone and he was in debt some three hundred thousand dollars besides. The crash came and it was the first intimation Hayward had of how things had been managed. He soon found that notes of the firm of Hayward & Coleman were outstanding to about the amount of the deficiency and he eventually had to pay them. As soon as the truth became known the partnership was of course dissolved, and Coleman retired into obscurity; while Hayward, with all his old-time perseverance and persistency, continued working—at times making large sums and at other times losing large sums, but in the long run coming out ahead and keeping rank among the men who have made fortunes by mining and stock manipulations in California.¹

Another remarkable case, though very different in its circumstances, was that of the Massachusetts Hill mine near Grass Valley in Nevada county. It was on a quartz vein that had been discovered and worked very early. About 1856 a company, called the Mount Hope, took hold of the property; and a man, named Michael Brennan, who seems to have been interested in the ownership of it, was sent out from New York to act as superintendent. Brennan appears to have been a man of education and culture and, being accompanied by an exceedingly interesting family consisting of a wife and three children, immediately took and occupied a high position in the social world of Nevada county. He was of very sanguine expectations and proceeded to conduct business on a large scale. At first he was eminently successful and at once upon sinking into the ground took out gold enough to pay the stockholders of the company a dividend of ten thousand dollars. Elated with this success and feeling confident of the value of the mine, he put up very expensive machinery and sank the celebrated Brennan shaft, which latter piece of work cost over thirty thousand dollars. But though he

¹Player-Froud's *Six Months in California*, 102, 103.

went beyond where he expected to strike the main lode and searched for it in various directions, he could not find it. Meanwhile he had made other mining investments in the neighborhood and continued pushing persistently ahead until he could go no further. He had not only spent all his own means but also large sums of borrowed money, for which he had executed mortgages. At last, finding himself absolutely unable to proceed any further—his shaft showing no indications of the nearness of the lode—and seeing apparently hopeless bankruptcy and ruin staring him in the face, he resolved to put an end to his existence as well as to that of his family. On Sunday morning, February 21, 1858, all were found dead in the family residence. Brennan's body lay on the parlor floor; that of his wife on a sofa in the same room, and the lifeless children in an adjacent room. The death of each had been caused by prussic acid. The husband and father had evidently first killed his wife and children and then himself. The exact circumstances were not known; but a loaded pistol, ready cocked, lying at his side, indicated that he was determined to make sure of his work. He left a letter explaining the reasons of his terrible act, complaining of his bad luck, asserting that he could not bear the thought of leaving his wife and children to a life of poverty and disgrace and expressing regret that he could not also take along his mother and a sister in Europe, who were dependent upon him for a maintenance. A few years afterwards—the mine having in the meanwhile reverted into the hands of the Massachusetts Hill Company, the principal members of which were William and Robert Watt—labor was resumed at the bottom of the Brennan shaft; and, within a very few feet of where Brennan had abandoned work and hope, the lode was struck and it proved to be one of the richest in the state, yielding many millions and making many fortunes.¹

Besides the push and energy of the miners, another characteristic of the early population was their readiness to engage in, and their handiness in carrying on, any kind of business that promised a money return. As mining with all its toil and moil was perfectly dignified and respectable, so was any other kind of

¹ Bean's History and Directory of Nevada County, 206-209.

occupation, and particularly if it yielded well. There were several ex-governors of eastern states and numerous ex-congressmen, as well as lawyers, doctors, ministers, professors and merchants, at labor in the mines; and none of them hesitated to don the woolen shirt and thick boots suited to the work or to stand in the mud and water day in and day out. But they were quite as ready, if the prospects of gain were better, to cut wood, drive ox-team, wash dishes or peddle tooth-picks. One old miner of the Calaveras river region, named Samuel C. Upham, after laboring at mining for about a month in the autumn of 1849, had a severe attack of rheumatism and was compelled to give up work. He went to Stockton and applied at a canvas tent, which was called the City Hospital, for relief; but was informed that board and medical attendance at that institution cost thirty-two dollars per day. This being rather too costly, as he thought, for a man in his position, he resolved to forego the comforts of the City Hospital and rely upon an old bottle of opodeldoc, which he had purchased for twenty-five cents in Philadelphia before coming to California. He did so and it cured him. But being afraid to return to the mines again, he changed his occupation to that of buying up tools, clothing and supplies of all kinds from miners, who were coming in disgusted from unsuccessful expeditions, and selling them at enormous profits to others who were about setting out with sanguine expectations on other trips. The coming on of the winter rains, however, spoiled this business; and the handy speculator was driven to San Francisco. There, having no place to sleep, he purchased a ship's galley five feet long by four feet wide for one hundred dollars and moved it to a vacant sand pile in what was then known as Happy Valley. The galley was eleven inches shorter than its owner; but by lying in a diagonal direction or "bias" as he expressed it, he was able to stretch out at full length. In looking about for something to do and finding that there was a great scarcity of pickles in the market, he immediately went to work gathering up all the old pickle bottles he could find and cleaned them. Next he kept his eye upon vessels arriving in the harbor and purchased from one of them a barrel of salted cucumbers and half a barrel of cider vinegar, with which he filled his bottles. By rapidly selling them off

before any more pickles arrived, he managed to clear in a week's time the sum of three hundred dollars. He next bought up all the tobacco pipes in the market or in the commercial language of the day "made a corner" in that branch of trade, and in about twenty-four hours cleared one hundred and fifty dollars by the transaction. He next became a carrier of the Pacific News newspaper and soon afterwards settled down to regular business as book-keeper of the concern at a permanent salary of one hundred dollars a week.¹

Another instance of this kind of hardiness and adaptation to circumstances was presented in the case of a pioneer Long Island lad, named Thomas W. Mulford. Finding the mines not sufficiently remunerative after giving them a trial in the autumn of 1849, he returned to San Francisco and in company with a few others, went into the business of hunting game, which was then abundant on the marshes near the city and for which there was an almost unlimited market. To enable them to operate on a large scale, they purchased a small vessel and many boats, suitable for threading the narrow sloughs and shallows in every direction and began supplying numerous customers, including the Panama steamers and various hotels and restaurants, with wild geese, ducks, snipe and curlew in large quantities. They were not the only persons in the business but they constituted the best organized company and carried on for several seasons the most extensive and remunerative trade. In the course of his hunting, Mulford settled at the mouth of a slough on the bay shore in what was then Contra Costa but is now Alameda county and established a farm, which engaged his principal attention in the summer time. A few years afterwards, when the game began to grow scarce and hunting would no longer pay, he took hold of the hotel business at San Leandro and ran it in connection with his farm. By degrees, as the growing of grain required more and more attention, he sold out the hotel and devoted himself for a time almost exclusively to the raising of wheat and barley. After a few years more, when the establishment of pickle factories

¹ Notes of a Voyage to California *via* Cape Horn, together with Scenes in El Dorado in the year 1849-50, by Samuel C. Upham, Philadelphia, 1878, 246-260.

and canning establishments created a demand for cucumbers and tomatoes, he planted several hundred acres in such vegetables; and they flourished, gave employment to hundreds of persons and helped start the subsequent immense commerce of San Francisco in those branches of industry. In the meanwhile, having in view the transportation of produce and supplies back and forth across the bay, he improved the mouth of his slough and made out of it an embarcadero—one of the most accessible and convenient at proper stages of the tide in the neighborhood—which has long been known as Mulford's Landing. Nor did his multifarious interests stop there; on the contrary, finding that the tide-lands in front of him, which he had purchased from the state, were favorable for the cultivation, propagation and growth of the rarest qualities of oysters transplanted from eastern waters—an industry that had for some time been successfully carried on at other points in the bay by John S. Morgan and associates—he devoted the necessary attention to that subject also, until his beds became as valuable as any in California. With all these calls upon his time and thought, in addition to what he gave to real estate, mining stocks and politics, he was a very busy man and a good example of the changes of the gold-digger of 1849 into the man of complicated affairs of later years.

The business shifts for making money in the cases just related were merely specimens of what occurred over and over again, with variations according to circumstances, in almost every part of the country. There were very few of the old pioneers that did not have experiences of somewhat the same kind. And sometimes they found themselves employed in a very unexpected manner. In September, 1849, for instance, William Taylor, the Methodist preacher, already mentioned, arrived by sea in the harbor of San Francisco. He had with him a wife and an infant child that had been born on the ocean. He was apparently almost penniless, but had an abiding faith, as he said, that God had sent him to California and would provide for him. Upon landing his first business was to find "lovers of Jesus and especially any bearing the name of Methodists." Upon searching he found a few, who received him with welcome. But they were not numerous enough to furnish him a house to live in; and he

felt obliged, without relying too much upon Providence, to build one for himself. Fortunately he was a tall, strong, big-boned man and going into the redwoods on the mountains back of Oakland—for in those days the crests of the mountains there were covered with a redwood forest—he went diligently to work getting out lumber. In a week's time he had sufficient scantlings, which had been in the first place split out of large trees and were then by himself hewed to the square with a broad-ax. He also made three thousand shingles, some of which he traded off for twenty-four joists seventeen feet long. He then procured rough clapboards or split shakes and shaved them down with his drawing-knife into comparatively decent-looking weather boarding. He thus gathered all the materials for a two-story house, twenty-six feet long by sixteen wide, except flooring, doors and windows. The doors he bought from a friend at the reduced price of eleven dollars per door and the windows at one dollar per pane ten by twelve inches. It cost him twenty-five dollars per thousand feet to get his lumber hauled from the redwoods to the San Antonio landing. From there to San Francisco the regular freight was forty dollars per thousand; but by chartering a boat and working himself he got his lumber transported for less than half that price. In six weeks he had his house finished and moved into it, having several spare rooms which he rented to pay for the money he had been obliged to expend.¹

The other experiences in the early days of Father Taylor exhibit some of the kindlier traits of the old pioneer people of California in a very strong light. Taylor was one of those dogmatic men that never for a moment entertained a particle of doubt about the doctrine he preached in all its particulars and seemed to think the community much indebted for his volunteered harangues. With this idea apparently in his mind he considered it not only respectable but extremely creditable to travel about at the expense of other people. His notions on the subject may be gathered from what he said of a brother preacher in California, named Isaac Owen, whom he praised for being "one of the greatest beggars in the world." Brother Owen, said he, not only had a natural talent for begging but was thoroughly skilled in the busi-

¹ Taylor's California Life Illustrated, 32-44.

ness. When he thought a certain portion of a man's money ought to be appropriated to a special church enterprise in which Brother Owen was interested—and he always had one on hand—and Brother Owen got after him, "that man," to use Father Taylor's language, "had just as well, like old Dan Boone's coon, give up at once."¹ Such being his principles, it was considered by many of the old residents, without regard to their other obligations, a matter of charitable kindness to contribute to his support and to treat him with respect. The captain of the ship that brought him out kept him on board without pay for two weeks after their arrival in port; and then for the next six weeks and until his own house was ready, he occupied, likewise without pay, the house of Captain Otis Webb, which would have rented for some four hundred dollars a month. Captain Webb was what he termed "nothing but an outsider," meaning thereby a person who did not belong to the Methodist Church; but he nevertheless found it in his heart to call him "high-minded" and, in view of the kindness received, to exclaim, "God bless the outsiders!"²

Steamboat companies found it for their advantage to treat preachers and ministers of the gospel with great consideration or, in other words, to pass them over their routes free of charge; and Father Taylor appears to have enjoyed that kind of traveling very much. He said in their praise that their liberality was unrivaled in the history of steamboat navigation. Stage-coach proprietors followed suit in this respect. They were all "outsiders;" but they were outsiders whom he called on God to bless. On the other hand, there were some of the "insiders" towards whom he was not so tolerant. One, who if not strictly an insider had at least expressed himself as "always glad to see the preachers," was a tavern keeper. He had previously, as appears, given Father Taylor a night's lodging or two without charge. On the last occasion, however, much to the surprise of his guest, he charged five dollars and fifty cents for a night's lodging and breakfast—the same as he charged other travelers; and the result was that Father Taylor in return, when he got a chance in the publication of his experiences in California to strike back,

¹ Taylor's California Life Illustrated, 110.

² Taylor's California Life Illustrated, 32, 33.

charged that the tavern keeper's covetousness had got the better of him or, what he thought was more likely, that he had been forced into making the charge by his wife, who was "the personification of grasping cupidity." But whether the tavern keeper was "insider" or not, it is certain that his clerical brethren of the Methodist Church South were insiders; and Father Taylor was very far from calling upon God to bless them. On the contrary, though he did not appear to take any special interest in the question of slavery, which was the chief bone of contention previous to the war of rebellion between the northern and southern wings of the Methodist Church, he hated them with a peculiar rancor. He said there was a great work for Christian men and ministers to do in California; and, if the Lord had sent those men out to help do it, he prayed the Lord would show them a way to save souls; but if the Lord had not sent them—and he plainly intimated that such was his own opinion—he hoped the Lord would "send them back where they came from—and the sooner the better."¹

Father Taylor thus, by his energy and perseverance in his peculiar line, proved himself a pioneer. He had no talent for oratory or writing; his harangues were exceedingly dry and commonplace; and his books, except in some autobiographical particulars where he became interesting in spite of himself, exceedingly dreary and jejune. But he kept hammering away at his street preaching year after year until 1856, delivering up to that time about six hundred street sermons or at the rate of nearly a hundred per year.² In August, 1856, having lost by fire and bank failures nearly all he had managed up to that time to save, he was furnished a ticket for himself and family by the Panama route to the Atlantic states.³ There he published several books on his experiences in California; and, by keeping on persistently in the same path and besieging the doors of preferment, he rose—and perhaps with as good right as many others who attained to high places in the church—to be a bishop

¹ Taylor's California Life Illustrated, 116, 155, 157.

² Seven Years' Street Preaching in San Francisco, California, by Rev. William Taylor, New York, 1856, 11-15.

³ Taylor's California Life Illustrated, 342.

and was sent out to Africa as a newer and perhaps more promising field for his ministrations.

Very different was the fate of another preacher, named James S. Dunleavy, who had been sent out as a missionary to Oregon a few years before Taylor came to California. He had gone there with bright prospects of success; but the discovery of gold in the Sierra Nevada opened what he seems to have considered brighter prospects; and in 1849 he and his wife resolved to seek their fortunes in the mines. Early in January, 1850, they settled at Rough and Ready in Nevada county, being the first family there. What his original intentions were in throwing himself among the miners may be uncertain; perhaps they were good; perhaps he intended to work, even if he did not preach; but though the spirit may have been willing the flesh was weak; and, almost before he knew how far he was straying from the straight and narrow path he had been recommending to others, he had opened a whisky-shop—and the very first institution of that kind in those diggings. A few months afterwards, for the amusement and accommodation of his customers, who must have been numerous to justify such an expenditure, he erected a ten-pin alley—a great novelty in those parts—and invited prominent men from far and near to be present at its dedication. His success as a saloon-keeper was of course death to his moral nature—and the finale of his career, after a year or two of ever-deepening degradation, was a wretched death among strangers at Mazatlan.¹

It is plain that California in the early mining times was not a favorable locality for men of very sensitive or very refined natures. Such men, unless of extraordinary strength of character, could not resist the strain upon them but were carried away in the universal swirl of excitement. Delicacy of organization and elevation of ethic and æsthetic feelings were, so to speak, at a discount. As affairs became more settled, churches sprang up as plentifully in California as in the older states of the Union and in the mining regions as in other portions of the country; but in the very early days there was but little encouragement for preachers unless they were such men as Father Taylor and

¹ Bean's History and Directory of Nevada County, 359, 360.

Brother Owen, who could shoulder their way among the roughest crowds. There was another class of preachers, equally qualified to make their way; and among the early immigration from across the plains they did more or less preaching whenever they could find appreciative audiences. A fair specimen of these spiritual guides was one, said to be a Methodist but evidently without the qualifications of a Taylor or an Owen, who preached a sermon at Santa Cruz in 1852, which may be said to have immortalized him. His text was, "Now abideth faith, hope, charity." He said he considered it one of the "texes" that would bear frequent examination. To illustrate it, he suddenly turned to his congregation and, expanding his arms as if to embrace them all, he exclaimed, "Is our souls sot heavenward? If they be, we shall move on the road to it. But some folks' talking of going to heaven and hoping to git there is like a man at home in the old states saying he hoped to git to Kallyforny, while all the time he sot still!"¹

But even in the midst of the rough and tumble of the early days, when there was so little encouragement for anything like refinement, men of culture were by no means infrequent. There were numerous highly educated and scholarly individuals among the adventurers and, though they as a rule concealed their accomplishments, these sometimes shone forth almost in spite of them. An interesting example of this kind occurred at Marysville in 1851. One day a weary and wayworn-looking miner entered the bar-room of the Tremont House. Nothing could be seen of his features except his eyes and nose; for over his brow was drawn a soiled Kossuth hat, while the lower part of his face was entirely concealed by an abundant and none too well-combed growth of beard. Depositing his blankets on the floor, he advanced to the bar-keeper and inquired for the proprietor of the house. To the proprietor, after a few words of explanation, the travel-stained miner delivered over his gold-dust, amounting to several thousand dollars' worth, for safe keeping and then seated himself in a chair in the parlor as if he were very tired and wanted a quiet rest. There happened to be an open piano on the other side of the room; and he was noticed

¹ Farnham's California In Doors and Out, 137, 138.

to be eyeing it for some moments very intently. Presently he got up and moved towards it and at length seated himself on the stool in front of it. A number of persons seated in the room were attracted by his movement and strange appearance; and while some smiled with ill-suppressed derision at what they supposed to be rusticity, others looked on with pity at what they took to be an unbalanced mind. But very soon their mockery and pity equally were changed into astonishment; for the stranger, after hastily running his fingers over the keys from end to end, suddenly struck the air of "Sweet Home" and such music gushed upon their ravished senses as they had never before heard except perhaps in dreams. Presently he began to accompany the instrument with a voice of surpassing melody, which penetrated through the corridor and up stairs; and in a little while all the ladies in the house were in the halls and on the stairways, listening spell-bound, while the rough-looking fellow, seemingly engrossed by the memories of other days and wholly unconscious of the presence of the listeners who were crowding behind him, played and sang piece after piece. He finally commenced "Katy Darling" and got about midway in the plaintive song, when, casting his eyes on one side and becoming aware of the attention he was attracting, he suddenly ceased, caught up his old greasy hat from the floor and vanished. When he next appeared, it was in a new suit and so completely changed in appearance that he would probably not have been recognized if he had not again on a favorable occasion seated himself at the piano and again delighted everybody within hearing with his extraordinary musical talents.¹

Another strange character, exhibiting a singular kind of refinement, was a gentleman, well known on the streets of San Francisco in the early days by the name of William F. Hamilton. He had come to the country in 1849, probably from New York, but was born on the island of Jamaica. The chief peculiarity about him was his extraordinary neatness and the scrupulous care with which he invariably dressed. Even in the rough, red-shirted, unkempt period of 1849, he always appeared in the very best style of attire. A year or two later, when San Francisco

¹ Mrs. Bates' *Incidents on Land and Water*, 207, 208.

assumed more of the ways of older cities, he put on a suit of the finest and most exquisitely-fitting broadcloth, unimpeachable linen, a high-crowned silk hat that shone as if it were just from the hatter's block, the most dainty patent-leather boots and faultless kid gloves. His figure was tall, erect and elegant; his waist slender; his shoulders well proportioned; his hair and beard jet black and trimmed with delicate nicety. There was nothing vulgar or obtrusive in his demeanor; he assumed no airs; his actions as well as his appearance showed him to be a gentleman. At a certain hour every pleasant afternoon for a number of years he was invariably to be seen on Montgomery street, promenading from one end to the other and always attracting more or less attention by the elegance of his dress and bearing. He was always alone and seemed to have no intimate friends, though he would politely recognize acquaintances. A number of persons knew him well enough to speak with him; but no one was sufficiently in his confidence to be able to tell how or where he lived, what his means of subsistence were, or how he passed his time when not taking his regular afternoon promenade. It was known of him, however, that he was a member of the Society of California Pioneers and it was said of him that he never failed to fulfil his duties and obligations as such member, always attending the society's regular meetings, taking part in its parades and always responding when called on for any kind of service. On Sunday mornings and sometimes in the evenings he attended one or other of the churches and was always an attentive and apparently devout listener.

There was one thing about Hamilton that everybody could see and that was that he was not a young man. He did not pretend to be. And yet he was a man of great vigor and elasticity. He was one day transacting business in the office on Montgomery street of a well-known notary public, named Frederick J. Thibault. There was a hand rail or balustrade, three or four feet high, separating Thibault's office from the remainder of the apartment and Hamilton, like all others of Thibault's customers, had gone inside the railing. When his business was done and he was about to go, he placed his hand upon the rail, at which Thibault exclaimed, "Here's the gate," and at the same

time politely rose to open it. But before he could do so, Hamilton, cheerily saying, "Thanks! don't trouble yourself!" gracefully vaulted over the rail and lightly landed on the other side. "Well done!" cried the astonished notary. "School-boy, eh?" "Well," answered Hamilton, smiling as he walked away, "I don't feel anything of old age as yet; but it is many, many years since my school-boy days!" On another occasion, in the course of a chatty conversation in the rooms of the Society of California Pioneers, a certain date was mentioned, when one of the party remarked, "That is the year and month when I was born, thirty-seven years ago!" Hamilton, who happened to be present, seeming to be attracted by the remark, turned to the speaker and, in his quiet and pleasant manner, said, "You are a mere boy—a mere boy, sir! Why, in that year and that month I was at Niagara Falls on my wedding tour! Yes, sir, on my wedding tour with my beautiful bride!" Here he leaned back in his chair, raised his eyes to the ceiling and brought the tips of his fingers and thumbs together in front of him, like one forgetful of all around, musing over the long, dim years of the past. "Yes, sir, yes—there are many members here who were born after my dear wife and children died—after the time when we were all living so happily together, just as so many are to-day and as I supposed we were to live on together, happily and comfortably, to old age. What a dream it seems—so long ago. Well, well! 'Life's but a dream!'" Then suddenly recalled to his surroundings, he glanced uneasily about for a moment; rose from his chair; passed his gloved hands gently over the lappels of his neat coat; arranged his hat with exactness upon his carefully-dressed hair; bowed with an air worthy of a Sir Charles Grandison; and, saying in his soft and courteous voice, "Good-morning, gentlemen!" took his departure.

As the years rolled on, writing their visible changes on everybody and everything, they seemed to deal lightly with the cheery old gentleman. He came and went at the regular hour for his daily promenade—always dressed with the same fastidious care; in clothing that could not be more elegant; with hat, boots and gloves, linen, hair and beard marvels of neatness. But one sunny afternoon in June, 1862, he did not make his customary appearance; nor the next day; and his absence was noticed.

His acquaintances remarked that something must be the matter, as he had been as regular and punctual as clock-work. But no one had seen him and no one knew where to look for him. On the third day after his disappearance, however, the morning papers contained a notice of his death. He had occupied a portion of the loft of a warehouse, built over the water, near the junction of California and Davis streets. There, known only to his immediate neighbors, he had been living, engaged in stuffing cushions for pews, coaches and carriages and making and renovating hassocks and footstools. There, year in and year out, he had toiled, earning his daily bread and gaining by hard labor the raiment that he deemed befitting a man of his refined and gentlemanly instincts. There he had lived in comparative solitude—with not a relative or friend or companion of any kind, with not even the hopefulness or encouragement of brighter or more prosperous or happier days to come. And yet he kept on in his plucky and laudable struggle to be independent and respectable and every inch the gentleman he felt himself to be. Those who were the first to enter the loft, where he had lived and where he lay dead, saw upon one side an ingenious contrivance, upon which were spread the shapely coat and vest so arranged as to preserve their unwrinkled smoothness. Upon a table, on the other side, was a wooden block and covering it his black wig, with every lock and parting as precisely cared for as he wore them in life. Across a chair lay his shirt, with a handkerchief over its neat bosom; and near by was his other clothing carefully disposed, his gloves lying together, his boots standing with their heels in military fashion—everything, in fact, apparently ready to be put on. But when they turned to the bed in the corner, their eyes beheld something which for a time they thought they had never seen before—a white and hollow face, with sunken lips, a forehead high and pale and a bald head without a vestige of hair. All that looked like the man so well known was the coal-black beard, recently dyed, which had evidently been cut and trimmed only a short time before the sudden and unexpected summons had called him over to the majority, where there are no vanities and no appearances to be kept up.¹

¹ Barry and Patten's Men and Memories, 50-57; Bulletin of June 16, 1862.

CHAPTER IX.

CHARACTERISTICS OF EARLY MINERS (CONTINUED).

THE peculiar life in the mines and the unusual circumstances, under which men were thrown together, were favorable to the development of strange characters. Almost every camp had one or more; and they made up a large part of that class who gradually came to spend their time in traveling from place to place, hunting new developments as a business and known by the general name of "prospectors." In the earliest year or two of mining times, while gold was plentiful and could be gathered by almost anybody who was willing to work with comparative ease, everybody was peaceful; there was no occasion to be otherwise; and, as was often remarked, in no country in the world were life and property more secure than at that time in the mountains of California.¹ Whatever idiosyncrasies adventurers had at that early period—before there was any use of trickery—were usually harmless and in many cases amusing in their innocence. In a few years afterwards everybody had to be on his guard against sharp practices and frauds of all kinds; but for the time being there was no thieving because, as has been stated, it was easier to dig gold than to steal it; and there was little or no temptation to commit crime.

It was customary in those days for the miners, when they met in their travels from point to point in the mountains, to camp together, join messes and spend the time between supper and bed-time in narrating to one another their adventures and telling stories over the camp-fire. The romantic interest of these wild scenes may be easily imagined. A glimpse into that glorious life in the mountains is here and there afforded by some of the old adventurers, who have attempted to reproduce their impres-

¹See *Golden Dreams and Leaden Realities*, 134.

sions; but most of the incidents, illustrative of those wonderful times and of the tales that demonstrated better than any catalogue the characters of the old miners, are lost. Bayard Taylor, who traveled over half the world to visit the mines and write about the California of 1849, said that he could readily have made up a small volume of the experiences in gold-hunting he heard during the four days he spent on the Mokelumne river; and it is to be regretted that he did not do so.¹ A night or two of such entertainments, faithfully portrayed with all the freshness and naiveté of the narrators, would furnish a better idea of the spirit of the times than stacks of the usual, after-thought, slap-jack and other exaggerations, which pass by the name of reminiscences of mining days. There was, for instance, a small way-side place of resort, called "The Willow Spring House," on the road between Sacramento and Mormon Island. It was built at that place on account of the purity and abundance of its water, an article which was very scarce in the region round about. Opposite the house and near the water was a little green slope, which for years was a favorite stopping place for parties going to or coming from the mines and nearly every night it blazed with camp-fires, around which were collected crowds of listeners intent upon tales of strange experiences or moving accidents or convulsed with the rib-tickling and hilarious laughter known only to the free air of the backwoods.²

There were many such places of resort throughout the mining regions where experiences were related and stories told; but only one more need be specially mentioned; and this chiefly because a more particular account of an evening and night at it has been preserved than of the others. It was a place of public resort on the pine-covered ridge between the Middle and North Forks of the American river about fifteen miles north of Spanish Bar on the road to Nevada City and was known as "The Grizzly Bear House." It consisted of a log-cabin, across the front of which was stretched a large strip of canvas, bearing the name of the place painted in black letters a foot and a half high, and on one wall at the side was nailed up the skin of an immense

¹ Bayard Taylor's *El Dorado*, 91.

² See *Golden Dreams and Leaden Realities*, 91.

grizzly bear. In front of the house, on the occasion referred to, half a dozen men were shooting with their rifles at a card fixed to a pine tree a hundred yards distant and boring it nine times out of ten. Inside the cabin at one end was a bar, consisting of a narrow board in the form of a bench three feet high, behind which were two or three decanters, several kegs of liquor, a few cigars in tumblers, some odd bottles of champagne, and a box of tobacco. A couple of benches and a table occupied the center of the house and sacks of flour and other provisions stood heaped up in the corners. At the rear of the cabin, among the trees, was a cooking-stove with an awning over it, which constituted the kitchen. The cook, who was one of the marksmen in front of the house, broke off his rifle practice about half an hour before supper time, went back to his stove, and prepared the evening meal, consisting of beefsteaks and tea. There was also bread; but it had evidently been baked at least a week before.

After supper, every man lighted his pipe and drew near the fire-place for the usual all-round talk. But the conversation was soon monopolized by two persons—both representatives of numerous classes of their kind. One was from Illinois and had been in the Mexican war. He very plainly considered himself an expert in military affairs, criticised very freely, though a mere private himself, the tactics of the various generals, and had much to say of how he and the American army had "given the Mexicans particular hell," as he expressed it. The other was one of the proprietors of the house, a bear-hunter by profession, who had numerous tales to tell of desperate encounters and hair-breadth escapes. He was a dry, stringy-looking man, with light hair and keen grey eyes and bore several scars, which he showed as evidence of his prowess, and proof of his veracity. Upon the subject of veracity he was especially touchy; and one of his guests came near having serious trouble by inopportune laughing in the midst of his most thrilling story. He had just told how he fired twice at a bear, when the brute, infuriated by the balls planted in its carcass, rushed for him. He ran; but, as he did so, he reloaded his rifle and turning around fired the third ball into the bear's left eye. The bear winked but only increased its speed. The hunter at this increased his own speed and

again loading as he ran, again turned around and fired the fourth ball into the bear's right eye; whereupon the brute, now winking with both eyes, put its nose to the ground and began to run him down by scent. At this critical instant the incautious auditor began to titter. The hunter, flaring up in a moment and scowling at the man, exclaimed, "What are you laughing at? Do you mean to say I lie?" "Oh no," answered the other, "if you say it was so, I suppose it is all right. You ought to know best. But I was not laughing at you. I was laughing at the bear."

"Well," rejoined the hunter, not at all mollified, "what do you know about bears? Did you ever kill a bear?" The auditor had to confess he never had; whereupon the hunter snuffed him out with a look of utter and supreme contempt and then went on triumphantly with his story, which ended with his getting up a tree and peppering the bear, as it was smelling around the butt, until it fell riddled with bullets. It was late at the conclusion of the story, when there was a general move towards a corner of the cabin where every man, choosing his own location, spread his blankets and lay down. Some slept in their boots, while others took theirs off to put under their heads by way of pillow. Early in the morning there was a general rising and ablution in a tin basin, which stood on a keg outside the cabin next an open barrel of water. Over the basin hung a very small looking-glass, in which a person could see only one eye at a time; and attached to it by a long string was a comb for the use of those gentlemen who did not carry an article of the kind for their own use. Most of the party commenced the day with taking a cocktail, the grizzly bear-hunter acting as bar-keeper, while his partner, the cook, who had been up an hour before, chopping wood and lighting a fire, laid the table for breakfast.¹

Another incident, affording a view of another phase of early mining life, took place at Weber Creek near Hangtown in 1851. There was a resident of that place who was ordinarily called the "philosopher." He was a man of very little education but had a superficial knowledge of some of the sciences, knew a few scientific terms and was exceedingly voluble of tongue. His especial hobby was phrenology, which he would obtrude on every possi-

¹ Borthwick's *Three Years in California, 176-182.*

ble occasion; and he was never satisfied unless allowed to feel and chart out everybody's head that would tolerate or listen to him. On one Sunday morning he made a visit to Hangtown and stayed all day and all evening, not getting back to Weber Creek until late at night, and then very drunk. Instead of going to his own cabin, he called at an acquaintance's and was taken in, talking in a maudlin manner about phrenology, the Democratic ticket and poker playing with an individual called "Jim" until he finally went to sleep. In the morning he began making apologies, when his host, noticing that his face was battered, asked him what he called the bumps around his eyes. "Well," said he, "you ask me a plain question and I'll give you a plain answer. I got into a 'muss' down at the store last night and was whipped; and I deserved it too!" The host did not ask any more questions at the time; but he afterwards learned that the philosopher had got to lecturing on phrenology at the store and illustrating his remarks by feeling heads and giving characters, at the same time keeping up his spirits every now and then with a glass of liquor. At last he got hold of a man to whom in his drunken excitement and apparently egged on by a laughing crowd, he gave a very bad character, calling him a liar, a cheat and a thief and winding up with saying that his "bumps" showed him to be a man who would murder his own father for five dollars. The natural consequence was that the owner of this desperate character jumped up and pitching upon the phrenologist, gave him the drubbing which he had so candidly acknowledged. And he probably would have suffered still more, if the bystanders, seeing their fun getting serious, had not interfered.

In May, 1850, the miners of Downieville and vicinity had an experience, which taught them that the honest old days had become things of the past; and they remembered the lesson a long time. Their tutor was a certain Captain Slater, who may have been and probably was a very persuasive man; but, under any circumstances, it is a great wonder how people came to trust him as they did. He seems to have been known much more widely than well. Having occasion, as he said, to go to San Francisco, he announced to the miners of the neighborhood

¹ Borthwick's *Three Years in California*, 151-153.

that he would take charge of any treasure intrusted to his custody and carry it there for deposit. His acquaintances, supposing the opportunity for transmission good and perhaps congratulating themselves upon the chance of saving express charges, brought their gold-dust to him, until at length he accumulated, as was said, two mule loads. With this he started off and made his way to San Francisco; but he did not stop there, nor did any of the gold-dust. On the contrary, he was soon missed to sight; and the next heard of him was a notice in an eastern newspaper of the arrival there of Captain Slater with an extraordinarily large amount of gold, which he had in the course of a few months, as he described it to interviewers, "with his own hands dug out of the Yuba river." And this was the first and last information the good people of Downieville had of him or of their gold after he had taken his departure from San Francisco.¹

In 1851 the people of Nevada City were led widely astray to their great cost and disgust by an individual, who called himself Dr. Rogers. It can not be affirmed that he was a fraud in the same sense that Captain Slater of Downieville was; he probably deceived himself as well as others; but the story of the excitement of the people of Nevada City at the time referred to and the wild-goose chase Rogers led them illustrates another phase of early mining days, which was often exhibited. The discoveries there and in that neighborhood of extensive auriferous quartz veins attracted much attention to the nature of silicious rock and the possibility of extracting the gold from it. Dr. Rogers professed to know all about the subject; and as he made great pretensions and talked learnedly and glibly, almost everybody believed in him. He said that quartz was of a porous or cellular structure; but that the interstices between the crystals were not large enough in the ordinary state and at the common temperature to allow the particles of gold to drop out. By the expansion of heat, however, the pores would open and the metal have free egress either in the form of minute grains or, if the heat was sufficient, as a melted current. All that was needed was the appliances for heating and giving it a complete shaking up. To the Nevada City people this looked reasonable enough;

¹ Correspondence of Columbia Courier, April, 1860.

and there was no difficulty whatever in raising all the money needed, while everybody, who had the opportunity of contributing, reveled in the idea of soon rolling in gold. A capacious furnace and large chimney were built at great expense and a mammoth wheel erected on Deer creek about a mile below the town. Wood, coal and ore in immense quantities having been brought to the place, a large iron reservoir at the bottom of the furnace was filled with water to receive and cool the precious metal as it loosened and fell or flowed from the rock. Everything being ready, the furnace was filled with alternate layers of fuel and auriferous quartz; the fire was kindled; and, as the mass burned down and lowered in the furnace, more and more wood and rock were added at the top. The great man, in whose capacious brain the whole process lay prefigured and who was receiving for his services a salary commensurate with the magnitude of the undertaking, rode up occasionally and with the air of a commander-in-chief gave orders, which were obsequiously obeyed, while the expectant millionaires stood around, eager for a sight of the first-fruits of the princely harvest they were to reap. At length, after tons of rock had passed through the fiery ordeal and it was supposed that the iron reservoir must be about running over, a suggestion was made that it would be well to take out a few millions so as to give place for more. The cinders and ashes were accordingly scraped away and the cauldron hauled forth; but it was as void of gold as when originally put in position. Not a pore of the burnt quartz had opened or, if it had, not a particle of the rebellious gold had come out of it. The entire scheme, which had been based upon ignorance and presumption, instead of knowledge or experience, was a complete failure; and the prospective Midases reaped no harvest—except the consciousness of having long ears. Rogers himself left in disgust; quartz was pronounced a humbug, and property in Nevada City, which had gone up in the excitement, fell to a lower figure than it was before.¹

There were many cases of men going under false names and living under false pretenses in the early days. Some of these had been guilty of crimes in their old homes, which they wished

¹ Bean's History and Directory of Nevada County, 82, 83.

forgotten; and some had had domestic difficulties, which they desired to escape. Not a few, doubtless, escaped detection and lived and may even yet be living under fraudulent appellations; but a number were found out. The most remarkable case was that of a prominent and influential individual who went under the name of Talbot H. Green. He came to the country overland in 1847 and was for a time connected in business with Thomas O. Larkin at Monterey. A year or two later he was taken into the mercantile firm of Howard, Mellus & Co. in San Francisco. He was plain in appearance, square-built and low in stature, but a man of much personal magnetism, active and enterprising. In the autumn of 1849 he married a San Francisco widow, by whom he had one child. He took much interest in public affairs; became a commissioner of the sinking fund of the city of San Francisco, and in 1850 was Whig candidate for mayor, with a very large and respectable support. A few days before the election, he was met on Montgomery street by Hiatt P. Hepburn, then recently arrived, who at once and familiarly addressed him as Paul Geddes, an old acquaintance. Green reddened but answered that the gentleman must be mistaken, as his name was Green and not Geddes, and that he did not know and had never seen the gentleman before. Hepburn, however, insisted that he could not be mistaken, as he knew Paul Geddes well and had known him in Pennsylvania for years. The result was that Green, finding he could not escape detection, confessed that he was Paul Geddes of Gettysburg, Pennsylvania; and at the same time he withdrew from his candidacy for mayor and left the country. It afterwards appeared that he had run away from Gettysburg under a cloud and in so doing had also deserted a Pennsylvanian wife and several children. Before leaving California he conveyed most of his property to his second wife; and, it is said, he then went back to his old home and did the best he could to atone for his wrongs to his first one.¹

But the most notable characters of the olden times were, perhaps, the American alcaldes. The office of alcalde, as has been already shown, was that of a magistrate and justice of the peace

¹ A Picture of Pioneer Times in California, 124-131; Sixty Years in California, 325.

under the Spanish and Mexican law; and in California there could hardly be said to be any other judicial tribunals than those held by alcaldes. After the American occupation the name of alcaldes as judicial officers continued; but the jurisdiction, which even in Mexican times was very indefinite and therefore very extensive, was almost illimitably extended, so as finally to embrace almost everything that the officer could claim. Being thus invested with such extensive powers, the natural effect was to develop the idiosyncrasies of the individual alcaldes and bring out in strong relief their peculiarities. This was in a very marked degree the case with the American alcaldes in the more settled parts of the country, where there was some little idea of law; but it was especially the case in the mining regions, where there could not be said to be any law at all.

One of the characteristics of these irresponsible officers was their roughness and disregard of everything like the amenities of life. It was their boast that they were endowed with common sense or "horse sense," as they usually expressed it, and that they could not be cajoled by technicalities or refinements of reasoning. They were of course very easily warped by a skillful advocate; but not by anybody who appealed to law books, used law terms or indulged in expressions that were not plain or that they did not understand. On one occasion in 1849, for instance, when William B. Almond, who though a judge of first instance was of the same kidney as the alcaldes mentioned, was trying a trivial case in San Francisco, the attorney for the plaintiff, in what he considered a sudden burst of inspiration, called his opponent an oscillating Tarquin. "A what?" exclaimed the judge in a stentorian voice. "An oscillating Tarquin, your Honor!" At this the judge, who was entirely unacquainted with Tarquin and had probably never before heard the word "oscillating," removed his feet from the table in front of him; and, leaning forward and pointing his index finger towards the offending disciple of Blackstone, he ejaculated in a voice of thunder, "If this Honorable Court knows herself, and she thinks she do, that remark is an insult to this Honorable Court. You are fined two ounces and stand committed till you down with the dust!" "But, your Honor—" remonstrated the attorney. "Silence sir," roared

the judge, "this Honorable Court won't tolerate 'cussing' and never goes back on her decisions." It is almost needless to add that the fine was paid and the attorney more careful of classical allusions for the future.¹

A widely known specimen of the mining camp alcaldes was R. S. Ham of Sonora, Tuolumne county. He was the first alcalde of that place and was said by some to have assumed the position without the formality of a vote or even a request from the inhabitants. But if this were so, he had probably been a referee or umpire in some private dispute and from that gradually evolved into an alcalde. At any rate he was generally recognized as such and, as might be expected under the circumstances, he usually sought to render judgments which would be acceptable to public opinion. If there was a popular cry against an individual or for any cause, whether just or unjust, an individual incurred popular odium or suspicion, there was little or no show if Alcalde Ham got hold of him. He was finally deposed under somewhat curious circumstances. A young man, who had been a cook and was apparently not popular, was accused of theft and haled before Ham, who ordered him into confinement and would in due course, doubtless, have ordered him hanged. It happened, however, that the young man had been a shipmate of Charles Bassett, the most influential man in the town, who determined to save him if he could. The relations between Bassett and Ham appear to have been strained at the time; and all that was left for Bassett to do was to oust Ham from his office. He accordingly called a public meeting of all the miners of the neighborhood and induced them to elect an exceedingly popular man, named James Fraser, of Sonorita Gulch as alcalde of the district and thus in effect supersede and shelve Ham. Fraser tried the charge against the cook with intelligence and fairness; and, there being a very reasonable doubt of his guilt, the accused escaped.²

Another case before Alcalde Fraser, or Frazier as he was often called, was that of a man named Atkins, an American gambler, who had got into a quarrel with a number of Irishmen at Big Bar on Sullivan's creek. After having received very rough treat-

¹ Upham's Notes of a Voyage to California, 267, 268.

² History of Tuolumne County, 13, 14.

ment at their hands, Atkins retired to his cabin, loaded his rifle and, firing it, killed a man named Boyd or Boydan, who instead of being one of his assailants had been trying to get him out of their hands. The homicide raised a great crowd and there was a clamor for immediate hanging. But order triumphed and the prisoner was taken before the alcalde and tried by a jury. The verdict and sentence was "That Mr. Atkins be found guilty of murder and that he be fined five hundred dollars and ordered to leave the settlement forthwith under pain of death." This punishment was not deemed adequate by the friends of the deceased, one of whom announced that he was going to kill the alcalde and was ready to forfeit five hundred dollars and leave the country for the luxury of doing so. Atkins found it prudent to seek a cooler climate and is said to have afterwards become sheriff of Siskiyou county, while Fraser, as soon as a fitting opportunity occurred, withdrew from the toils and perils of such an office.¹

In the neighboring town of Columbia, where very soon after its settlement in the spring of 1850 there were about six thousand inhabitants and one hundred and forty-three faro banks in operation, the general lawlessness occasioned a public election, which resulted in the choice of an individual, known as Major Sullivan, as alcalde. He was charged with having had a regular system of swindling everybody with whom he had dealings; and, though this charge may not have been entirely true, it seems certain that he always managed to get large fees and not always from the proper parties. One of his first cases was that of a Mexican charged with stealing a pair of leggings. The accused was convicted and fined three ounces for the stealing, while the prosecuting witness was mulcted one ounce for troubling the court with the complaint. On another occasion a man brought suit for a mule. He proved his property and the defendant was ordered to restore it and pay one ounce fine and three ounces costs. As, however, he did not have the money and it could not be made out of his hide, Sullivan ordered the plaintiff to pay the fine and costs for the reason that the court could not be expected to sit without remuneration.²

¹ History of Tuolumne County, 14.

² History of Tuolumne County, 25, 26.

There was sometimes a grain of grim humor in the American alcaldes, which was well illustrated in the following incident that appears to have taken place in one of the northern mining camps. In the autumn of 1849 a tall, handsome young fellow, dressed in a suit of fine broadcloth and mounted on a splendid horse, stole a purse of gold-dust from the cabin of an honest miner and disappeared. As soon as the fact became known the loser and several of his friends went in pursuit of the thief. It being ascertained that he had taken the main road that led around a high mountain, his pursuers cut across by a trail, which was much shorter than the road, and overhauling the young man took him before the alcalde. That officer, after patiently listening to the testimony, quietly said to the prisoner, "The Court thinks it right that you should return that purse of gold to its owner." To this the culprit readily assented and handed it over. The alcalde next remarked, "The Court thinks you ought to pay the costs of the proceedings." To this also the culprit made no objection, evidently thinking he was very fortunate to get off so easily, and inquired the amount. Being informed the costs were two ounces of gold-dust, he cheerfully produced and paid that sum. "And now," continued the alcalde, with a twinkle in his eye, "there is another part of the sentence of this Court that has not yet been mentioned; and that is, that you receive thirty-nine lashes on your bare back, well laid on." The wheels of justice moved much quicker in those days than in these; and long before night-fall that young man had occasion to be sorry.¹

Under the judicial system adopted by the first state legislature, which sat in the early part of 1850, the name, office and jurisdiction of alcaldes were abolished and provision made for justices of the peace, with definite and restricted powers. But, on account of the habits that had grown up and to which the community was accustomed under the old system, some of the new officers continued to assume very broad powers and were for a year or two at least almost as rough and arbitrary as some of the old alcaldes. There was one for instance, elected justice of the peace for the town of Nevada in 1851, who was quite a specimen in his way. His name was Ezekiel Dougherty, but he was commonly

¹ Burnett's Recollections and Opinions of an Old Pioneer, 342, 343.

known as Uncle 'Zeke. To give an example of his manner of procedure:—A fellow was brought before him charged with horse stealing. Several witnesses were sworn and testified and they appear to have made out what looked like a strong circumstantial case against the accused. When they were through, the counsel for the prisoner rose and, apparently after addressing the Court on the danger of such testimony, added, "May it please your Honor, I now propose to introduce a few witnesses to establish the good character of my client." But he was stopped right there by Uncle 'Zeke's exclaiming, "What the hell is the use of trying to prove his good character when he is already proved to be a — thief?" On another occasion, in a criminal case, when the evidence was all introduced and counsel for the prosecution had spoken, and Uncle 'Zeke was not only convinced but also tired and thirsty, the counsel for the prisoner, who proved to be the same as in the former case, arose and, hanging his right hand to his left by means of hooks made of the little fingers, as if preparing for a long argument, "Your Honor," said he in opening, "it is a presumption of law that a man is innocent until he is proven guilty."—Uncle 'Zeke, who was uneasily twisting in his chair, suddenly jumped up, interrupting, and exclaimed, "Yes! but there is another presumption of law; and that is, that a justice of the peace is not bottomed with cast iron. You may go on with your speech; but I am going after my bitters—and I am going right now!"¹

Perhaps the most notorious of mining-town justices, however, was R. C. Barry, who occupied the office at the town of Sonora in 1851. He was very illiterate, but had evidently heard something about the forms of law and attempted to follow them. In doing so he made many ludicrous blunders. For example, in a summons issued against two persons for a forcible entry, he charged them with "a nucense" and proceeded to state that plaintiff as an American citizen "claimed a writ to dispossess them and to have restitution according to law, with appropriate damages for the impossession now about to be carried out against him by such high-handed and mercenary arrogance on the part of the aforesaid accused." On another occasion, where a

¹ Bean's History and Directory of Nevada County, 84, 85.

man named Barretta was examined for the theft of a box of money from an old Mexican woman and her daughter, Barry gave his decision in writing and concluded it with the following words—"the case—being so at variance with the common dictates of humanity and having been done under very painful circumstances when the young woman was about to close her existence the day before she died, and her aged mother at the same time lying on her bed of sickness unable to rise and get a morsel of food for herself, and he at the time presenting himself as an angel of relief to the poor and destitute sick, when twenty poor dollars might have relieved the immediate necessity of the poor, enfeebled, sick and destitute old woman, far from home and friends—calls imperatively for a severe rebuke and reprimand for such inhuman and almost impreserved conduct, as also the necessity of binding him over to the court of sessions in the sum of five hundred dollars."¹

But however ludicrous Barry made himself when he attempted to write, he was plain, direct and incisive enough in his oral remarks. When so minded, he was almost Johnsonian in coarse repartee. Leander Quint, an able and gentlemanly attorney of Sonora, who practised before his court and against whom he entertained a violent dislike, had a habit when arguing a case of gesticulating violently with his right hand, from which he had lost the first three fingers—the remaining thumb and little finger being extended in a peculiar and to the justice very disagreeable manner. After a trial in which Barry has as usual ruled against him, Quint exclaimed, "Judge, I never did have any show in your court!" "No, sir," replied Barry, "and you never shall have any! When a man comes into court and wiggles his fingers and rolls up his eyes as you do, he can't have any show here. In Texas we have man traps, sir, that cost thieves their fingers. It looks — suspicious, sir; it looks — suspicious—but I hope it is all right!"²

A justice of the peace, named Jenkins, who held office at Sonora as late as 1853, preserved much of the freshness of the

¹ History of Tuolumne County, 68, 69.

² History of Tuolumne County, 377.

olden times. A man, named Jewell, had entered the American Hotel of that place and getting into a quarrel with Charles Ashton, the proprietor, drew a knife and inflicted several ugly, but as it proved not very dangerous, cuts across the throat. Being taken before the justice for trial, Jenkins, after hearing the evidence gave judgment as follows: "Charley, I have to fine you ten dollars and half the costs; and, as for you, Jewell, you're a disgrace to any community and I fine you ten dollars and the other half the costs." In another proceeding, in which a young lady had brought suit against a young gentleman for trifling with her affections, Judge Jenkins, after listening patiently to all the testimony, dismissed the case on the ground that the young gentleman had acted in self-defense.¹

Incidents, like the foregoing, illustrative of that phase of mining life which exhibited itself in the offices of the mining-camp alcaldes or justices of the peace, might be accumulated; but a sufficient number has been given to show the condition of affairs in this respect. The ordinary alcalde or justice was a man of sound sense and discretion, very commonly one of the captains or leaders of parties from across the plains, who had acquired great experience in the conduct of affairs; but circumstances afforded favorable openings for strange and peculiar characters—the special outcome of the environment—such as have been shown. The last that will be mentioned in this connection was a singular specimen named Peter Olney. He was said to have been secretary of state of Rhode Island under the rebel government of Governor Dorr and was a man of very decided and original views on almost all subjects. He drifted down to Marysville in 1850 and at the first election there, under the then recent legislation of the state concerning judicial officers, was chosen justice of the peace. Unfortunately his health was not good and within a few months after his election he died. When about to give up the unequal struggle with death, he announced that he had some property and indicated a wish that the "boys," who had been his friends and helped to elect him, might take what money was left after paying his funeral expenses and have, as he expressed it, "a jolly good time." His wish was

¹History of Tuolumne County, 71.

complied with; and, as there were funds enough for the purpose, the "boys" did have an extraordinarily good time.¹

Every period has its characteristics and peculiarities, which are afterwards looked back to with special interest and curiosity; but no other country in the world, probably, has ever had such a period as the early mining times of California or the "fall of '49 and spring of '50" as they are generally designated. Of those wonderful days nearly every place in the mountains has its traditions, which are handed down and preserved as honorable records. And not only do the present inhabitants of California treasure up these memories and reminiscences of the olden times; but every one, who feels an interest in California and its people, will find them full of a significance far beyond their value as historical novelties or curiosities. The new and strange life, illustrated by them, had a very marked effect upon the old Californians and made of them the remarkable men they were. It was an educator of its kind and a very valuable one, brightening and humanizing its pupils and teaching them the lessons of consideration for others as well as of respect for and confidence in themselves.

Borthwick, an Englishman with a talent for sketching, who traveled through the mines in 1851 and 1852 and made a series of interesting drawings and wrote an excellent book describing what he saw, after leaving California went to Nicaragua and resided there during a portion of the time when the Nicaragua route between the Atlantic states and California was a favorite line of travel. While there he had constant opportunities of contrasting the outward-bound emigrants with the same class of men returning to the east after having received a Californian education. Every fortnight two crowds of passengers rushed across the isthmus, one from New York and the other from San Francisco. The great majority in both cases were in the lower ranks of life. Those coming from New York, who were mostly Americans and Irish, seemed to think that every man could do just as he pleased, without regard to the comfort of his neighbors. They showed no accommodating spirit, but grumbled at everything and were rude and surly in their manners. They appeared

¹ Bean's History and Directory of Nevada County, 79.

to be raw and stupid and apparently unwilling to do anything for one another; but, with astonishing perversity, seemed to delight in acting in opposition to every arrangement and regulation made by the Transit Company for the general comfort and convenience. The same kind of men, however, on their return from California were gentlemen in comparison. They were orderly in their behavior; and, though rough in dress and language, they manifested great consideration for other persons. Instead of making general nuisances of themselves, they submitted without objection to any personal inconvenience, necessary for the common good, and showed by their conduct that they had acquired notions of their duties and obligations to others, that were great improvements upon the ideas they had formerly entertained.¹

¹ Borthwick's *Three Years in California*, 149, 150, 324.

CHAPTER X.

STRUGGLES FOR ORGANIZATION AND ORDER.

IT was to some persons a matter of surprise that chaos and anarchy were not at first the result of the sudden throwing together of so many heterogeneous elements as were brought into juxtaposition by the great immigration of 1849. But such was not the case in any part of the country; and that it was not so was no doubt in great part owing to the large proportion of superior men among the immigrants and to their capacity for self-government. California in fact afforded to the American people the first opportunity of exhibiting themselves as colonists and showing the outcome, so to speak, of those extraordinary generations of self-government that in less than a century made the United States the happiest and one of the most powerful nations on the face of the globe. Other new states were in substance merely the expansion of the outer boundaries of older states; but California was essentially a colony and developed as a distinct and for the time being a disconnected organization.¹

The disposition of the Californian adventurers to organize and maintain order manifested itself in many cases long before they reached the Pacific coast. Most of the aggregations of persons that left Atlantic ports were knit together, by constitutions and by-laws, into companies or associations, calculated to secure harmony and enjoy the advantages of combined effort and mutual assistance; and so of almost every caravan or train that struck out on its long and weary way across the plains. There was probably not a single one of these company constitutions that lasted intact any great length of time; but the fact that they were so readily altered and amended or abolished and new ones adopted, as soon as experience demonstrated the

¹See Borthwick's *Three Years in California*, 381, 382.

necessity or advantages of such action, only evinced the extraordinary inherent aptitude of the different individuals to cohere in accordance with principles of law. And this aptitude showed itself not only in the rules and regulations expressly adopted by various organizations, but also, and in a much stronger degree than is usually recognized, in those apparently anomalous and irregular outbursts known as lynch-law proceedings, which in the absence of effective municipal law took its place throughout the country.

In the case of companies or associations coming out by sea the usual rules and regulations adopted before reaching California related to contributions for outfit and division of profits: In general they provided for perfect equality, each man contributing his equal share of expenses and to be entitled to an equal share of profits or an equal chance to make profits for himself. Sometimes the arrangement was that all that should be made should constitute a company fund and be equally divided among the members, while in other cases it was provided that each man should be individually entitled to all he made after paying his share of the expenses. There were, however, differences in special cases. If one person furnished all or the main cost of the venture, he was to be first reimbursed or to have a larger share than the others; and so on through many variations of provisions according to differences of circumstances. In almost all these cases, as the adventurers were to come out as passengers or sometimes as crews of vessels sailing under national flags and as such were subject to the restraints and control of the maritime laws, there was little or nothing said about disputes or crimes or how the former should be adjusted and the latter punished. In perhaps every case there was a president or chairman; and the sense of the association was expressed by a majority vote; but as a rule there was no attempt to prescribe anything like a code of law or to interfere with or touch upon anything except association as distinguished from individual concern.

But in the caravans or trains that associated or organized together for the purpose of crossing the comparative deserts between the Missouri and Sacramento rivers, where there was

no law or at least no tribunals for enforcing law, there was a necessity of going much further and either providing in advance some kind of a code or recognizing one without adopting it in advance. A criminal might be legally punished or held for punishment on shipboard; but it was very different on the plains; and it was for the reason that lynch-law was the only law that it became so prominent a feature and played so important a part in the history of the early mining times. Nearly every overland train therefore was an organized company with a captain or leader chosen as a nominal head and a code of general regulations for train government and mutual safety. But like all codes and laws, which are based only upon theories and are not the natural outgrowth of circumstances and actual experience, these regulations were almost invariably found insufficient and impracticable. The great majority of trains, so organized before starting, divided or broke up entirely before reaching the South Pass, some members cohering under other regulations and others proceeding by independent and helter-skelter marches. Some trains divided from policy, because they were too large and on account of the difficulty of procuring grass in one place for all their animals; while others did so on account of dissatisfactions, ill-feelings and disagreements among themselves. It was found that small parties of twenty men got along together much better than larger companies and that three or four men to a mess were sufficient for harmony.¹

One of the first trains of emigrants that crossed the continent consisted of one hundred and sixty persons, eighty of them armed men, who started from Independence, Missouri, for Oregon on May 16, 1842. They had hardly got under way, however, when a difficulty occurred; and it appeared as if everybody wished to govern and no one wanted to obey. At length, on occasion of one of the party proposing to steal a horse from the Indians—a proceeding which might have been not only very dangerous in itself but besides have led to many very serious consequences—it was determined to try him before the entire company. A meeting was accordingly called and the man in an informal manner put upon his trial; but, as it appeared

¹ Delano's *Life on the Plains*, 117.

that he had merely talked of stealing an Indian horse, without doing any act towards it, he was acquitted on the ground that he had committed no crime. At the same time there was much discussion as to the necessity of adopting a code of laws for the future government of the company; and a committee was appointed to take the matter into consideration; but this committee reported that no law was requisite other than the "moral code enacted by the Creator and recorded in every man's heart"—a report which met with great favor and was adopted by an overwhelming majority. Not long afterwards, however, the supposed efficiency of the moral code sustained a severe strain from a resolution or decree to kill all the dogs in the train. The storm provoked by this proposition was terrible and would doubtless have wrecked the entire association, had not a reconsideration taken place and the obnoxious measure been abrogated. With the exception of this trouble about dogs, the moral code, supplemented however with prudence and discretion on the part of the leaders, sufficed to carry the train safely and unitedly to its destination in the Willamette valley, whence the next year fifty-three of them, including twenty-five armed men, emigrated to California.¹

Almost all the overland trains previous to 1849, however, consisted of relatives or intimate neighbors and friends, who intended to become permanent settlers side by side on the Pacific coast and were accustomed to living together in harmonious equality, mutually helpful and mutually tolerant. Such companies seldom had unruly members or any that were not entirely devoted to the general good and perfectly submissive to the will of the recognized leaders. In such cases there was little or no need of any code of laws; and the subject, except in a few extraordinary instances or under very peculiar circumstances, was hardly ever thought of. Year after year more and more trains of that kind, with families of children in the wagons and driving their cattle leisurely along before them, made their way across the vast stretches of interior country without any more disagreement or dispute than if they had been in fact one

¹A New Description of Oregon and California, by L. W. Hastings, Cincinnati, 1849, 7, 21, 64.

family led by its patriarch, to whom all looked up and in whom all had unbounded confidence. But when the gold rush began in 1849 and companies, consisting of all kinds of heterogeneous elements, got together for the simple purpose of reaching the mines in the quickest and most inexpensive manner, it was found, as above stated, that there would be an absolute necessity for law of some kind and for tribunals to enforce it; yet, as also above stated, there was hardly a case in which a theoretical or previously-adopted constitution or code proved practicable or lasted even for the trip.

An amusing example of one of these train organizations and its fate was afforded by a company consisting of about seventy persons, who came from Tennessee and left the Missouri river for California in the spring of 1849. They had a somewhat curious form of government, based upon a constitution and by-laws, with a president, vice-president, a legislature, three judges and a court of appeals, nine sergeants and various other officers. All these officials were to be exempted from the performance of camp duties by virtue of their dignity, leaving it to the plebeians or rank and file of the company to do the drudgery and stand guard at night. The scheme seemed to read very well on paper and was entirely satisfactory to those who were to be exempt from menial labor; but when it came to be put in practice it was not strange that it produced murmuring and finally rebellion. One of the plebeians, afterwards well known in California as Col. Joseph S. Watkins, thinking the plan of government smacked too much of oligarchy, petitioned the legislative body for an amendment of the constitution remedying the evil; but his petition was decided to be out of order for the reason that it was not presented by one of that august body; and no member could be found who was willing to espouse a proposition calculated to compromise his own privileges. The agitation of the question and the manner in which it was treated by the legislative body led to an open rupture; and the result was that Watkins, after vainly endeavoring to secure something like republican equality and a fair division of burdens, seceded from the association and was followed by thirteen wagons, apparently composing the most of the other

plebeians. In this case there was no Menenius Agrippa with honeyed words to win back the seceders; and their withdrawal finally occasioned a complete disruption and dissolution of the society. Such a plan of association, with its aristocracy and exclusive privileges, would not have stood for a moment in California, and it could not and did not hold together even to get a good start on the way hither.¹

The crossing of the plains in 1849 and for a few years subsequent, while the gold fever lasted, afforded an extraordinary opportunity of trying the characters of individual adventurers. A man's bad qualities were almost sure to exhibit themselves in a strong light. As a young Missourian, who knew whereof he spoke, expressed it, "If a man has a mean streak about him half an inch long, I'll be bound if it don't come out on the plains!" The trip was no holiday excursion. It had its pleasures and its romance; but it also had its sufferings and sometimes its despair. Though many got through safely, it was a long and weary road for all; and in numerous cases horses, mules and cattle broke down; provisions gave out, and men, women and children were left destitute, with hardly anything to eat or any means of getting forward, and exposed to a burning sun by day and a chilling cold by night. Perhaps an almost exhausted horse or mule might remain to carry a remnant of supplies; yet sometimes even without this slender aid, mothers might be seen wading through deep sands or climbing steep rocks and dragging along crying children; or sometimes fathers, strong when they started but now pale and emaciated with hunger and fatigue, carrying infants on their backs and appeasing their ravenous appetites from the carcasses of dead horses or mules. Hardly any died of absolute starvation; but there was in cases great destitution. Some became desperate and committed suicide. On one occasion in 1849, three men and two women, who had become frantic with suffering, drowned themselves in the Humboldt river. The men had previously made an unsuccessful attempt to kill themselves but had been rescued. They, however, persisted in declaring that death was preferable to what they had to endure and

¹ Delano's Life on the Plains, &c., 84, 85.

finally succeeded. The women had families and were driven to the dreadful deed by witnessing the sufferings of their children.¹

Some whose animals gave out before they had advanced too far turned back on foot and depended on charity to reach their old homes. Others found it more prudent to go on than to turn back. Among the various schemes concocted for the purpose of making money out of the great rush in the early part of 1849 was a line of spring-wagons to be drawn by mules, which were advertised to start from St. Louis at certain times and go through to California in sixty days. One of these vehicles—and probably the only one—started with a load of passengers, each of whom had paid in advance the sum of two hundred dollars and received a through ticket. Upon approaching the Humboldt river, the mules gave out; and, as nothing else could be done, there was a general distribution of the property of the concern among the passengers. A few only obtained mules and pushed ahead; but the others were compelled to go a thousand miles in the best manner they could, trusting to luck and other emigrants for aid and provisions. Most of them were obliged to make their way on foot; and as a rule each traveled with a knife or pistol or both for protection and carried a knapsack, containing all his smaller goods including scraps of provisions, and a pair of blankets rolled up and strapped upon his shoulders. It was fortunate for the sufferers that the majority of the emigrants were kind, generous and helpful; and it was seldom that any one that deserved assistance pleaded in vain to those who could possibly render it. Some carried their good-heartedness and philanthropic consideration for others so far as to establish a sort of reading-room and post-office in the desert near the head waters of the Humboldt river. It consisted of a natural circular wall of rock near the roadside and shaded by a single tree. The founders had contributed a lot of newspapers, which were placed on stone seats within the walls with a written request to "Read and leave them for others." It was a small matter of itself perhaps, but it indicated something very large in the brave fellows that had thought of it. On the other hand some of the emigrants were

¹ Delano's *Life on the Plains, &c.*, 72, 237, 238.

exceedingly inconsiderate and careless of others. They may have been thoughtless; but it is more likely that they were vulgar and low-lived.¹ It was no infrequent thing for these people on their way across the deserts, to be obliged to throw away property of different kinds, including provisions and clothing; but in such cases they seemed to take a delight in destroying it; as if it were a satisfaction, because they could not use the property themselves, to prevent anybody else from using it. Sugar was ruined by having turpentine poured over it and flour by being mixed with salt and dirt; wagons were burned, and clothes were torn into shreds and tatters.

But the witnessing and forming part of that great overland emigration was a great spectacle and a great experience—well worth all the toil, the suffering and the danger. It was something extraordinary, something the like of which had never occurred before and was not likely to occur again, something to be remembered and talked about in after times. For miles upon miles, reaching far beyond the limits of vision and in fact stretching across the continent, sometimes following one after another and sometimes pressing forward side by side, were long trains of wagons with their white covers moving along through the sand and dust. Among them and accompanying them were multitudes of horsemen and numerous companies of men on foot, some driving cattle and some walking in preference to riding in the wagons. At meal times they stopped for a short rest; but in general they pressed forward while daylight lasted and sometimes even after dark, unless their animals were footsore or exhausted. At night their camp-fires could be seen blazing in lines extending to the horizon except where obstructions cut off the view. The scene could not be called a gorgeous one; there was no holiday parade about it; the trains and the emigrants were dusty and travel-stained; but the many wagons and animals and stalwart men, moving on, looked like a mighty army on its march.² It was an army, however, not bent on war but on peace, not on destruction but on building up. It was an army whose arms were the implements of industry, whose music was the

¹ Delano's *Life on the Plains, &c.*, 63, 67, 56, 157.

² Delano's *Life on the Plains, &c.*, 46.

voice of labor, whose banners were the ensigns of work. It was an army that was full of earnestness and determination; but they were the earnestness and determination of every one to carve out for himself an honest career and to conquer fortune by deserving it;—the aggregate and outcome of all which was the foundation and construction of a new empire.

The humors of the plains were usually of a rough and sometimes coarse nature. The large canvas-covered wagons were called "prairie schooners," and many of them carried mottoes such as "California or bust," "No return tickets by this line," or something equally as expressive but unrefined. In the same manner nearly everybody had a nickname, often chosen from the name of the state or town whence he had come or from some marked peculiarity in his character. The food they ate was the food of a rough and unrefined life. It consisted generally of salt pork or bacon, varied when possible with fresh buffalo meat or venison, beans, baked dough, which was sometimes honored with the name of bread, and flap-jacks. The latter article, which was famous in the early times of California and always associated with early mining life, was made by mixing flour and water into a sort of batter, seasoning it with salt, adding a little saleratus or soda by way of yeast if handy, and frying in a pan greased with fat. When one side of the flap-jack was cooked, the frying-pan was taken from the fire and, by a quick and peculiar motion, the half-baked cake was thrown into the air in such a manner as to turn over and fall into the pan again, with the uncooked side down, when it was again placed on the fire and the cooking finished. The tossing of flap-jacks became an art; and no one was deemed a proficient miner, who was not skillful at it.¹ As every one was liable at almost any time to be called upon to do the cooking, every one learned something of the art; and the best cook, the man who could make the most palatable dish out of the materials on hand, was regarded as a very important individual.

All of the adventurers as a rule were fond of story-telling or listening to stories, especially around the camp-fires at night; and nearly every one was addicted to practical joking. There

¹ Ryan's Personal Adventures, &c., I, 238.

were laughter and hilarity when the weather was pleasant, the road good and grass and water plentiful; and dissatisfaction and grumbling when otherwise; but nothing stopped the advance of the adventurers as fast as they could get forward. There was in fact great rivalry in getting ahead, not only on account of reaching the gold fields first, but also on account of the pasture for cattle, which soon became a very great consideration. Another reason for pressing ahead, particularly in the start, was to outrun the cholera, which attacked some of the emigrants about the time of leaving the Missouri frontier and pursued the trains like a ravenous wolf that could not be stopped by trap, snare or gunpowder. A great many, estimated by some at four thousand, died and were buried in shallow graves along the road; but still the trains moved on, and the ranks of those who fell were filled by those who came on after them and took their places.¹

In the entire absence of anything like authoritative law or duly constituted judicial tribunals on the plains, the emigrants were compelled, as has been stated, to resort to what was ordinarily called lynch-law. Properly speaking the term "lynch-law" applied only to the kind of law that is administered in a summary manner by irresponsible and irregular tribunals in places where regular courts exist and in opposition to them. The word is said to have been derived from a Virginian farmer, named Lynch, who, having caught a thief, instead of handing him over to the officers of the law, tied him to a tree and flogged him with his own hands. He is supposed to have had little or no faith in the efficacy of the law or the efficiency of the courts and therefore took upon himself the office of accuser, judge and executioner, without allowing himself to be hampered with technicalities or delays. But on the plains there were no laws to invoke and no tribunals to appeal to; so that there was a very marked difference between trials held and punishments inflicted by the emigrants after leaving Missouri and before reaching California and those of other times and places when and where there were laws and courts in abundance. All irregular and illegal proceedings of the kind, however, without distinction got in a short time to be called after the name of Lynch or rather

¹ Delano's Life on the Plains, &c. 15-18; Bayard Taylor's El Dorado, 283.
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after that of a supposed Judge Lynch and to be known indiscriminately as lynch-law.

The thing was not new even on the plains. On the Santa Fé trail, near the crossing of the Arkansas river, among the Cherokee people, they had a custom, as far back at least as the early thirties of the century, of summarily disposing of a fraudulent debtor by sentencing him to "take the benefit of the bankrupt law" as it was called. This consisted of seizing the delinquent, stripping him, and tying him to a tree, when each creditor, with a good rawhide or hickory switch, would score the amount of his bill on the bare back at the rate of one stripe for every dollar due. As the application of the lash took place in the presence of a crowd and was accompanied with all sorts of remarks that were calculated to produce merriment in the spectators, the exhibition usually afforded no small amusement to everybody present, except the victim. After the ordeal was over the creditors were expected to declare themselves perfectly satisfied; and, it was said, that they could not have been persuaded to receive from the debtor, even if he had offered to pay, a single cent of the debts which they had thus "taken out of his hide." As a rule, however, the victim did not remain in the neighborhood long enough to make any offers, but on the first opportunity emigrated to a pleasanter and less exacting community.¹

Among the various summary trials that took place on the plains in 1849 one of the most remarkable was at Fort Kearny. An emigrant was conducting his family to California and had advanced with a large party a few miles beyond the Fort, when one of the company offered a gross insult to his wife. As soon as he heard of it, without waiting to consider whether there was any other redress, he raised his rifle and shot the assailant of his wife's honor to the ground. His companions, with his own consent, took him back to the Fort for an investigation into the circumstances of the homicide. Upon an examination and trial, it appearing that the facts were as stated and the provocation great enough to produce an ungovernable passion in a reasonable mind, he was held to be justified and honorably acquitted.²

¹Commerce of the Prairies, &c., by Josiah Gregg, Second Edition, New York, 1844, II, 12.

²Delano's Life on the Plains, &c., 50.

Another remarkable case on the overland route, which however did not come to a trial and resulted very differently, was said to have taken place in the Humboldt river basin. An adventurer, who had managed to get ahead of his recent companions and seemed to consider it a matter of great importance to his own interests to keep ahead, conceived the idea of setting fire to and destroying the meadows of dry grass as he hurried along for the purpose of retarding their progress and preventing them from overtaking him. Grass was scarce enough under the best of circumstances in that region; and the burning of the meadows along the river put those behind him in great jeopardy. He did not progress far with his dastardly work, however, before a company of those who were behind, having selected and mounted their best horses pursued and, without waiting for the formality of a trial and conviction, shot him from his saddle as he rode ahead.¹

Meanwhile the argonauts or those adventurers who sought the golden fleece by sailing around Cape Horn or crossing by the way of the Isthmus of Darien also had their experiences of what might be called a sort of lynch-law. But there was a difference between the class that came all the way by sea, or the long voyage, and the class that took the shorter route. Most of the former came from the Atlantic seaboard and were more or less accustomed to or familiar with ship-life, besides being in general more orderly. They were in the main a very independent set of men and would not stand any great amount of imposition ; but on the other hand they were in general as well treated on the voyage as circumstances would permit. Considering the number of old and unseaworthy vessels that were pressed into the service and the miserable quality and insufficiency of their supplies, it is a matter of wonder that many of them ever reached San Francisco; but almost every one did come safely into port; and as a rule the chief difficulties that occurred were only occasional murmurs and remonstrances in reference to provisions. Sometimes disputes would arise as to the management of the ship or the places to stop at or the length of time of stoppage ; but these questions were generally arranged in a spirit of com-

¹ Bayard Taylor's *El Dorado*, 285.

promise, the object of both parties being to arrive at the point of destination as soon as possible. The most common difficulty, however, when any occurred, was as to the quality of the flour or sea-biscuit or beef or pork or the amount of coffee or sugar that was allowed. Sometimes captains, with an eye to carrying their supplies to a good market in California, would stint their passengers. Cases occurred where passengers who had been promised and had paid for seats at the ladies' table and first cabin fare, were obliged to live on lobsouse and dunderfunk—the first a detestable ragout made of a mixture in a pot of boiling water of everything edible in the ship, and the second a sort of cake or pie constructed on the same principle, except that the beef and pork were commonly excluded.¹ But ordinarily, when better provisions were on board or could be procured, and the fact was found out, the officers in charge deemed it prudent to make such changes as were required and thereby avoided what would otherwise undoubtedly have been very serious trouble.

On two occasions in 1849 captains of vessels, California-bound from American ports, were deposed by the passengers and others put in their places; but in both instances the captains proved to be worthless drunkards; and the action of the passengers, instead of being regarded as mutiny, was so plainly justifiable that it was rather commended than found fault with and no prosecution of any kind ever instituted.² The spirit of independence and determination not to be imposed upon among the early Californian adventurers from Atlantic ports was so well known that many cautious captains, who had been accustomed to ruling their vessels with despotic sway, declined to accept the command of ships engaged in the trade of carrying them. They said they had repeatedly brought over large cargoes of emigrants from Europe without a fear or thought of insubordination, but those passengers were Europeans who had been in the habit all their lives of being governed and who never once dared to ask questions or make inquiries. But it was different with Americans. Their rulers were little else than puppets in their hands

¹ *Golden Dreams and Leaden Realities*, 25.

² *A Picture of Pioneer Times in California, &c.*, 83.

and had to dance to such tunes as they chose to play for them. "No, no!" exclaimed one captain, "save me from a ship-load of Yankee passengers. You will find that just as soon as they recover from their first seasickness they will hold a mass-meeting on the quarterdeck, without deigning to ask the captain's permission, and prescribe rules for the government of the ship; or perhaps they will depose the captain altogether and put in his place a popular sailor taken from before the mast, as their idea will be to run the vessel on democratic principles. So, excuse me from the command of a Californian passenger ship."¹

Many of the adventurers, who came by the way of the isthmus, differed in various respects from those who came around the Horn as well as from those who crossed the plains. Among them were those who were unwilling to undergo the hardships of the other routes. There were many first-class immigrants; but there were also many of the off-scourings of eastern cities. Most of the professional gamblers and blacklegs, hailing from the Atlantic states, came by that route. After the steamer lines were well established there was comparatively little traveling in any other way; but even from the start a large proportion of the gold hunters sailed for Chagres or Colon, taking the chances of getting over to Panama and there finding vessels of some kind to carry them to San Francisco. An observer, who took passage on the steamer Falcon from New Orleans for the isthmus in July, 1849, attempted to describe some of his fellow passengers from the same place by calling them new varieties of Americans and saying that they were long, loosely-jointed men, with large hands and feet and limbs that would be awkward whatever the fashion of their clothes. He added that their faces were lengthened, deeply sallow, overhung by straggling locks of straight black hair and that they wore an expression of settled melancholy. The corners of their mouths were curved downwards and their upper lips drawn slightly over the under ones, giving to the lower portions of their countenances that cast of destructiveness peculiar to Indians. They chewed tobacco at a ruinous rate and spent their time either in dozing at full length on the deck or going into the fore-cabin for "drinks." Each one carried arms

¹ A Picture of Pioneer Life in California, 80.

enough for a small company and breathed defiance to all foreigners.¹

Upon arriving at Chagres or Colon, the next thing for the adventurers to do was, as soon as possible, to proceed up the Chagres river in canoes, poled or dragged by natives, to Gorgona or Cruces and from there make their way to Panama. The isthmus was exceedingly unhealthy and particularly so in the swampy grounds on the Atlantic side; so that no traveler, who could get forward, remained there overnight. Panama on the Pacific side was somewhat better; and it was there, or in its neighborhood, that the adventurers congregated, sometimes in hundreds and sometimes in thousands at a time, until they could get further. Being idle and having nothing else to do, they were mischievous. With the exception of a few handy mechanics, who found employment during their detention, such as a wagon-maker who made the first cart with spokes in the wheels seen in Panama, the crowds were in general dissipated and given up to all kinds of rough and riotous living. The same observer, who spoke of the rough passengers of some of the steamers from New Orleans, said further, specially referring to what he saw at Panama, that though he believed the larger portion of the immigration to California was intelligent, orderly and peaceable, he never witnessed so many disgusting exhibitions of the lowest passions of humanity as during his voyage.² Another observer used the same epithet "disgusting" in reference to the heartless selfishness he saw and heard of at Panama in 1851. Every man seemed to be for himself and for nobody else; and a sick man was looked upon as a hindrance, a thing to be avoided.³

The most common sicknesses were malarial fevers and at times cholera and sometimes smallpox. Indiscretions in eating fruit and drinking whisky brought on many of the attacks; but perhaps most of the trouble was due to the indiscriminate and intemperate use of drugs. A characteristic of many classes of Americans was, as it still is, a weakness for patent medicines and specifics of various kinds; and large numbers of men, chiefly

¹ Bayard Taylor's *El Dorado*, 8.

² Bayard Taylor's *El Dorado*, 27, 33.

³ Borthwick's *Three Years in California*, 30, 31.

Yankees and westerners, fell victims to the mania. Persons coming from a northern climate to such a place as Panama were naturally apt to experience some derangement of their general health, which might, however, with proper restraint and care have been easily rectified. But nearly everybody came provided with preventives of fever and preventives of cholera and powders, potions and pills of every kind for the cure of every disease, known or unknown, that flesh is heir to. The moment a person imagined there was anything wrong with him, he became alarmed and dosed himself with all the medicines he could get hold of; so that when in reality attacked by a serious disease, it was usually because he was already half poisoned by the miserable stuff he had been swallowing and the result too often was such a weakening of the system as to be unable to resist the attacks.¹ Meanwhile the scramble among those, who were well enough to travel, for passage to California was very active. All kinds of vessels were brought into requisition; many of them, like those on the Atlantic side, unseaworthy and most of them ill-supplied and overcrowded. By the time the mail steamers ran regularly between Panama and San Francisco there was not as much enforced detention on the isthmus; but on the earliest trips fares ran up to enormous rates and the strife for them was in some cases bitter. On the first trip of the steamer California over a thousand dollars was paid for one steerage passage from Panama to San Francisco. The effort to get ahead and the difficulty of doing so were so great that several parties started off in an attempted voyage from Panama to San Francisco in canoes, apparently with the idea of coasting along from headland to headland and thus in time reaching the golden shores; but they all turned back before they had proceeded far on their way.²

But when a bargain for passage was made, the passengers expected and demanded that it should be carried out in a spirit of fairness and honesty. This was not always done. Many ship-captains were disposed to be as extortionate on land as they were despotic at sea. With the chances of making money, which they had before them, their exactions knew no bounds. It was not

¹ Borthwick's *Three Years in California*, 31.

² Bayard Taylor's *El Dorado*, 30.

without reason that Almond, judge of first instance at San Francisco, as has been shown, was prejudiced against them and mulcted them in damages whenever he got a good opportunity. Although he was sometimes almost as arbitrary as a Jeffries, the community found little fault with his judgments and threw away no sympathy on the class of ship-owners and ship-captains, who had incurred his wrath. In numerous cases, however, the passengers, without waiting to be compensated by the courts, took the matter of their grievances into their own hands and exhibited the same spirit and determination in securing what they felt to be their rights as were exhibited by their brethren on the plains.

A striking instance of this kind occurred on board the Dutch bark *Alexander von Humboldt* at Panama in May, 1849. This vessel had been chartered to carry a cargo of coal; but, on account of the great number of persons waiting on the isthmus for transportation to California, its owners, whose names are said to have been Feroud and Leach, made different arrangements and advertised it for passengers to San Francisco. Being a well-built craft, it was considered a tolerable substitute for the overcrowded steamers; and there was a rush to secure passage. The demand was so great and the prices asked so high—being three hundred dollars for cabin and one hundred dollars for steerage passage—that the owners could not or would not restrain their greed, but sold nearly a hundred tickets in excess of the carrying capacity of the vessel, which with crew and all did not exceed four hundred persons. The money actually received would have paid in full or very nearly the sum of sixty thousand dollars, the entire cost, to the owners, of the vessel and outfit. But the passengers, as soon as they found what had been done, called a meeting, forbade the captain to hoist anchor, and, seizing the owners and making them prisoners on board their own ship, refused to release them until they had promised on their bended knees to charter a brig then lying in the harbor to carry the excess of passengers over the number that should have been accepted. The result was that eighty-four of the passengers, selected by lot, were transferred to the brig; and the owners of the *Humboldt* were taught that it was not as easy to impose upon a crowd of adventurers for California as they supposed. In the meanwhile inquiries were

made as to the provisions on board and, it being ascertained that they were unwholesome as well as insufficient, demand was made upon the owners to supply what was necessary. The demand being refused by the owners, the passengers themselves purchased what was needed and gave notice of a lien on the vessel for their advances. Thus supplied, after a week's delay caused by these troubles, the Humboldt set sail with three hundred and sixty-five passengers and on September 1, 1849, reached San Francisco, where it was soon after sold to pay debts, including those for reprovisioning the vessel at Panama.¹

Another example of somewhat the same character was presented in the case of the British bark John Ritson, which sailed from Panama for San Francisco in February, 1849, with seventeen cabin and forty-nine steerage passengers. The captain was an Englishman named Kennedy. He had received his fare at the rate of two hundred dollars for cabin and one hundred and fifty dollars for steerage passage and had agreed, impliedly if not expressly, to furnish in return therefor not only transportation but healthy food during the voyage. After getting to sea, however, the steerage passengers found that they were being served with biscuits that were full of worms and bugs. They objected and finally refused to accept them. The captain at first received their refusal with a significant smile; but afterwards, upon ascertaining that the passengers had secured possession of a barrel of sound provisions from the ship's stores and helped themselves, he became furious and threatened to throw any man overboard that touched another barrel. This threat, instead of producing the effect he intended, roused the indignation of the passengers and they gave the captain to understand that, if matters were not mended, he himself would be likely to suffer the fate he threatened. In reply he spoke at one time about running his vessel ashore and at another time of returning to Panama, to which the passengers rejoined that he might do as he pleased; but in the meanwhile they were going to have wholesome food to eat as long as there was any on shipboard. It was evident from their manner and tone that they meant exactly what they said; and Kennedy, perhaps for the first time in his life, found that there was a

¹Statement of James E. Gordon, Secretary of the Humboldt Association.

limit to the tyranny of a sea-captain, even on board his own ship. At any rate he changed his conduct; the passengers had no further occasion to make complaint, and in due time the vessel reached its destination. Meanwhile a New Bedford whaling bark, called the Equator, which had passed and spoken the John Ritson at sea, reported at Panama that the passengers had placed the captain and officers in confinement and taken command of the vessel; and in consequence of this information a British man-of-war was sent in pursuit. But fortunately for the tuition of Captain Kennedy in a lesson that he seemed sadly in want of learning, the John Ritson made its way to San Francisco and delivered over its cargo of Yankee blades without outside interference.¹

¹Tyson's Diary of a Physician in California, &c., 26, 33, 34.

CHAPTER XI.

EVOLUTION OF MINING LAWS.

AFTER reaching California and particularly after getting into the mining regions, one of the first things done by the adventurers, if they had not done it before, was to formulate some kind of rules and regulations for their government as miners. These were in general confined to the size and manner of working claims and differed according to circumstances. Sutter and Marshall, as has been seen, attempted to control the mining ground about Coloma and demanded rent from those who worked it; and for a short time their pretensions were respected and rent was paid them. But newcomers, who better understood what was due to every man that desired and was willing to dig for gold, disputed their pretensions and declined to pay for a privilege to which they considered themselves as well entitled as Sutter and Marshall themselves; and as the course of discovery showed that the mining ground, instead of being confined to a small area on the South Fork of the American river, extended along the western slope of the Sierra for hundreds of miles to the north and to the south, it soon became understood as a cardinal principle throughout the country that the mines and all of them, wherever situated, were perfectly free and that any man had as much right as any other man to enter upon and work mining ground. Such being the case, with the object of securing this right, one of the first rules adopted was to fix the size of claims, or in other words the amount of mining ground a man might occupy, and next to determine what should be considered as constituting occupancy. All men were to be regarded as equal; and probably in no case was there more absolute equality among men than in the early mining days. A man by his intellect, enterprise, courage or manners might be superior to another and

looked up to; but in theory and to a large extent in practice he was no better. The ordinary distinctions of society had disappeared. Learning, attainments, family connections, wealth, dress and other qualities or surroundings that went to make up the social inequalities known in older and more settled communities, counted for nothing in the mines. All men were upon the same level; and equality of ownership, as well as equality in other respects as a logical conclusion, was the foundation upon which the fabric of mining law and custom was based and reared.

In the very early days of placer mining, it was not uncommon to fix the size of a claim at ten feet square; but it was only in very rich ground that this quantity was found to be sufficient. In poorer localities or where ground had been once partially worked, the size was usually one hundred feet square, though there were many variations according to circumstances—the idea in each case being to afford every man a fair chance to accumulate wealth and with this object in view to give him as much ground as he could reasonably use. The next provision—and a very remarkable and important one—was that the claim could only be held while it was being reasonably worked. It was usual to provide that, when a claim was taken up, stakes should be driven at the corners or written notices of appropriation posted up or an entry made in a record book open to the public; and sometimes several of these modes or others equally efficacious in giving information were required; but in all cases the fee of the land was regarded as belonging to the government and no person could acquire any ownership beyond the mere use for mining purposes and that only while being so used. A very common condition was that a certain amount of work should be done within a specified time, sometimes a certain amount every week during the mining season; or otherwise that the claim should be liable to be taken up by anybody else. So also, if a person went away from his claim without leaving his tools or some other understood evidence of an intention of returning and resuming work. Here again, it was the same principle of the equality of every man and his right to an equal chance with his fellows; on the one hand securing him in his possession and the fruits of his labor, but on the other hand offering to each of his fellows the

same privileges, if he failed to make use of them. The condition under which claims could be held and the circumstances under which they could be forfeited, together with the size of claims and the manner of settling disputes, constituted the chief points embraced in what were known as the mining laws or mining customs. There were of course variations in different localities. In most cases the first discoverer or locator of a mining region was entitled to more ground than any other miner, generally to twice as much; and in many cases special provisions were made about sales and purchases of claims and the authentication of bills of sale, which were the usual instruments by which claims were conveyed.

Obviously no customs or laws could be adopted without some kind of consensus or assent on the part of the mining community. This was at first generally merely the agreement of the particular company or camp, which might have its own separate and distinct rules and regulations different from all its neighbors; but by degrees meetings of the miners of different camps and at length of whole neighborhoods were held, until finally it became common to form what were known as mining districts, embracing large tracts of territory and to adopt laws applicable to and effective throughout the whole territory so included. On account of the particular manner in which these customs originated, and also on account of the gradual evolution through them of a system of mining laws, which have become recognized as a part of the common law of the land and have so commended themselves to the practical good sense and judgment of the community as to have been substantially adopted throughout the entire country, their study is exceedingly interesting.

As has already been shown, almost all the attempts to form companies for working in the mines, before the mines were reached and the nature of the mining industry was understood, proved vain. It was impossible to know in advance what kind of stipulations were necessary or what kinds of associations would be most coherent. Even the most simple connection, that of copartnership, was perhaps almost as often newly formed in the mines as it remained unbroken from an earlier stage.

But whenever found, if it lasted any length of time in the mines, it became an exceedingly close relation. Two men, who lived together, slept in the same cabin, ate together, took turns cooking and washing, tended on each other in sickness, and toiled day in and day out side by side and made an equal division of their losses and gains, were regarded and generally regarded themselves as having entered into a very intimate tie, a sort of bond of brotherhood almost as sacred as that of marriage. The word "partner" or "pard," as it was usually contracted, became the most intimate and confidential term that could be used. If a miner had a partner—and if he had none he was regarded as more or less an unsocial being—he took no important step without consulting his "pard." His "pard" was supposed to be his better second self, who could go much further and do much more for him than he could for himself. He was expected to stand by him in evil fortune as well as in good fortune; and any one, who was found faithless or recreant to his trust, was a sort of criminal or outlaw in whom no one could place any reliance.

Next to partnerships were companies or groups of associates. As has already been stated, many of the adventurers, that came out in the early days, came in companies, consisting usually of persons from the same place or who traveled together and had the intention of working together. Some of these companies were aggregations of partnerships and cohered; but in general they were composed of heterogeneous elements and soon split up into separate and distinct combinations. It depended much upon the previous life and experiences of a collection of men whether they would cohere as a company in the mines or almost immediately break up. Hardly a single company from the eastern states lasted any time after reaching the mines and many disintegrated before getting within sight of them. The main reason was that the kind of life they were compelled to lead was something entirely new and they could not provide in advance for a condition of things of which they were ignorant and the like of which they had never seen or heard about. With the exception of the Oregonians, who hung together remarkably well, and some other frontiersmen, who already

knew something about camp life and voluntary combinations on the basis of equality for common purposes, few had any conception of the spirit of mutual helpfulness as well as mutual tolerance and sufferance requisite to make a man a good member of a mining community, which the Californian miners had to learn in time—and it was a great and valuable lesson whose result served to mark and distinguish them from other people and as a general rule to make them so much more considerate and orderly and at the same time so much more determined and strong. Thus, though companies and groups of individuals, as originally aggregated, were continually breaking up, new ones, more suited to the condition of affairs and better calculated for permanency, were continually being formed. And thus by the changes taught by experience and the improvements that took place with these changes, there became possible and there at length came about that system of mining laws and customs before referred to, which, though peculiarly Californian in its origin and growth, was suited to the working of mines anywhere and, being based upon the application of reason and logic to the general conditions of mining countries, has been very appropriately called a part of the common law of the subject.

Some of the first attempts to formulate laws or rules and regulations of this kind in California were among the discharged soldiers soon after the end of the Mexican war in 1848. The plan chosen was to organize small companies of from three to ten members under the leadership of one of them; and each of these companies adopted a series of written rules intended to secure the common interest. They differed in minor points according to the peculiar views of the associates; but the general purport of them was that each member should bear an equal share of all the expenses of the outfit, such as the purchase of a yoke of oxen, cart, horses, packs; tools and provisions. All were to proceed together to the gold mines and no one was to be allowed to separate from the party without unavoidable necessity or general consent, in which case he was to receive an amount of goods or money equivalent to his original investment, less what he had consumed or injured. All were to work together, using the tools and property of the

company in common; but each man, after contributing his equal share to the current expenses of the company, was to have the right to retain all the gold he could dig. In case of difficulty or danger, whatever might be the circumstances, all were to stand by one another. No sick man was to be abandoned, and every possible means was to be adopted to restore him to health. Every man, in his turn, was to do his share of the cooking, chopping wood, fetching water, attending horses or animals and other camp work. In case any member separated himself from the company except as above provided, he was to forfeit all his investment, save such portion as the company might allow to assist him in joining another party or seeking new diggings; and if any member should be found guilty of stealing from or robbing another, he was to be immediately expelled and forfeit the whole of his property. There was nothing said in the rules, because there was as yet nothing known among the associates, about the size of claims and how they were to be secured and held. In some cases it was provided that all the gold dug should be placed in a common fund and equally divided at stated times; and in a few rare instances there was a provision, though perhaps never carried out, that a member who became intoxicated should be expelled.¹

Such rules and regulations, like most all which were formed before the mines were reached, were found to be insufficient very soon afterwards. They might answer for a while and for the internal government of particular companies; but they did not touch upon the size and tenure of mining claims, which in a short time became a subject of prime importance throughout the mining regions. As soon as it was understood that the United States government, notwithstanding various plans were talked about either to lease or sell or levy a percentage upon the mines, would not interfere with the free and unrestricted working of them, it became a matter of immediate importance and in fact necessity to fix upon the amount of ground each man might hold and the terms upon which he might hold it. The moment one piece of ground was recognized to be more valuable than another and there were several persons who

¹ Ryan's Personal Adventures, &c., I, 211-214.

wanted it, that moment the necessity existed for a regulation upon the subject; and it was not long before a practical solution was reached by the recognition or adoption of some sort of rule or law. The usual plan was to call a meeting of the miners for the purpose; and the action of these meetings, which were guided in their deliberations not by theories but exclusively by experience and practical needs, evolved the system of mining laws and customs which are now more or less generally observed in like cases from Alaska to New Mexico and from the Sacramento to the Mississippi.

The fundamental principle underlying all these laws and customs, as has already been said in substance, was the equality of all men and the right of every man to have an equal chance so long as he did not trench on the prior right of another. Though, as has also been said, nearly every separate camp or district had some minor provisions different from others, still this was fundamentally the spirit of all. And there were a great many hundreds of them. Nearly every bar, flat and gulch had its separate rules. Their jurisdictions were frequently changed, some consolidating into larger districts and others dividing into smaller ones—the changes being dependent chiefly upon the character as to homogeneousness or otherwise of the mining region embraced and the convenience for the miners of access to a common place of meeting. As soon, however, as the extent of the camps or districts was settled, the meetings of the miners within their districts became frequent; and the proceedings of the meetings, not only in respect to what they did but also, and much more so, in respect to the education and development of the miners in general culture and the conduct of public affairs, became exceedingly interesting and important.

One of the earliest of these codes was that of Jackass gulch, in Tuolumne county. The original size of claims allowed there, when the camp was first organized in 1848, was ten feet square; but after the grounds had been once worked over the size allowed was enlarged to one hundred feet square. It is probable that in the beginning at this camp, as at most all the camps at first, no man could hold more than one claim; but in 1851, when the

laws of the camp were put into writing, sufficient progress had been made to allow a transfer to any person who would buy. In such case the transaction had to be made by written bill of sale certified by two disinterested persons as to the genuineness of the signature of the seller and of the consideration given; and any dispute as to such sale had to be left to and decided by a jury of five persons. Notices of claims had to be renewed every ten days until water could be procured to work them; and as soon as there was sufficient water, absence of five days from a claim, except in case of sickness, accident or other reasonable excuse, would forfeit the property. And these rules extended over Soldier gulch as well as Jackass gulch and over their tributaries.¹

Springfield district in the same neighborhood adopted a series of written rules and regulations, in which it was provided that the size of claims should be one hundred feet square, but no person was under any circumstances to hold more than one; and work upon it had to be performed at least one day out of three during the mining season. Claims had to have substantial stakes at the respective corners and had to be registered and described in the book of precinct registry, to which the owner or owners had to sign their names. Several persons owning separate claims might concentrate their labor upon one of such claims. Disputes were to be referred to a standing committee of five miners or to one or more of this committee as arbitrators or to a jury. If the standing committee was called upon, each member was to be paid two dollars for his services; it as well as the witnesses were to be sworn; and its decisions, as well as those of a jury, were to be final. Either party to a dispute could compel the other to come to trial by giving three days' notice of the time and place, and costs had to be paid as in cases before magistrates. No one but an American citizen was entitled to act as a committeeman or juror, and no foreigner was to be allowed to hold a claim unless he paid the foreign miners' license tax.²

Jamestown district, which was also in the same neighborhood,

¹Shinn's Mining Camps, 237.

²Shinn's Mining Camps, 238-242.

was regulated by miners' meetings held every six months and sometimes held on special occasions. In 1853, the laws having become unpopular, a rousing meeting assembled, which repealed all previous laws and adopted a new set, at the same time recognizing the validity of all claims secured under former regulations. The new laws fixed the size of claims at one hundred feet square, required notices to be posted, stakes driven at corners and a ditch a foot wide and a foot deep to be cut all around the boundaries within three days after location. Failure to work a claim within six days after the mining season commenced caused its forfeiture. Other claims could be held upon proof of purchase; and water from the ditches could be used in accordance with the rule that priority of appropriation gave priority of right. It was also provided by these laws that a miner might enter any agricultural land or enclosure, upon giving security to pay all damages done to growing crops or improvements; but in no case was any digging to be allowed within twelve feet of any building or so as to obstruct entrance to it. Shaw's Flat, Sawmill Flat, Brown's Flat, Mormon Gulch and Tuttletown districts, all in the same rich region, were much the same but differed in some particulars on account of diversities of situation and experience. In Shaw's Flat the claims were to be square in form; members of a company could not hold claims for absent members, and diggings where the pay dirt was at least twenty-five feet below the surface could be held without work from November to May, if they were well defined and recorded in the district registry. In Sawmill Flat it was provided that disputes about claims or water privileges should be submitted to arbitrators, two chosen by each party and the four so selected to choose a fifth; but, if a general meeting of miners should become necessary to enforce the laws or for any other purpose, it was to be called by a standing committee of three persons to be elected from time to time by all the miners of the district. In Brown's Flat all the five arbitrators were to be appointed by the standing committee, which was to act as a court of appeal in case the arbitrators failed to give satisfaction and was to hold office until superseded or in other words during good behavior. In Tuttletown no one person was to hold more than two claims either by purchase or otherwise;

but several of the districts named provided—and it afterwards became a very general provision throughout the country—that the discoverer or original locator of new diggings should be allowed to hold twice the usual amount of mining ground.¹

In districts that had alcaldes, such as Yorktown, Chinese Camp and many others, the laws did not attempt to provide for the arbitration or other adjudication of disputes, for the reason that jurisdiction in those cases belonged to the alcalde; and he was supposed to have an interest, at least to the extent of his fees, in every case of disagreement that arose. In some districts, however, arbitrations were still recommended, but as a rule these arbitrations were only such proceedings in the alcalde's court as were known in the old Spanish law as those of "conciliacion," based upon the principle that disputants should, if possible, be reconciled without formal litigation. In districts, where there were dry-diggings, special provision had to be made in the rules and regulations for the safety of the heaps of pay dirt that were thrown up in the summer for washing in the winter; and in districts, where there was water but only in limited quantities, there were strict laws to prevent its diversion without the consent of all parties interested. So in many other districts there were various special provisions according to the character and richness of the ground and dependent upon whether the mining was what was known as surface diggings, deep diggings, tunnel claims, hydraulic claims or quartz claims.²

Sweetland district in Nevada county was organized in 1850 so as to allow thirty feet square to a claim; but two years later claims of eighty by one hundred and eighty feet were allowed. In 1853, at a miners' mass-meeting, the district was divided into three parts and separate regulations were adopted in each. In one of these, known as the North San Juan, which for a time was the main center of hydraulic mining, one claim could be held by location and an unlimited number by purchase. This latter provision, allowing the aggregation of claims by purchase, was calculated to permit those extensive hydraulic operations; in which many thousands of dollars were invested in appliances

¹ Shinn's Mining Camps, 240-242.

² Shinn's Mining Camps, 243-246.

and whole acres of auriferous earth washed down together into the sluices. Notices of claims in this district had to be renewed every thirty days except when obviated by the daily presence of the owners or their representatives; but the expenditure of five hundred dollars in prospecting or opening up a claim served to secure it to the original claimant for two years; and in case of sale the instrument of transfer had to be placed on record within a week. In Brown valley, Yuba county, the miners in 1853, like those of Jamestown in the Southern Mines, finding their laws arbitrary and oppressive or, in other words, unsuited to their condition, assembled in mass-meeting and abrogated them. They then adopted a new set of laws, whereby the affairs of the district were to be regulated at semi-annual meetings, at which each claim was to be represented by the owner or by a proxy specifically empowered for the purpose; and in case a claim was not represented it was to be declared forfeited.¹ At a very early period in Yuba county, as in fact throughout the mines, the right of newcomers to a reasonable share of mining ground, not already too crowded, was recognized. An old miner, one of the first on the Yuba river, relates that he and a companion had discovered a very rich spot in a remote cañon sloping to the river and were doing remarkably well, when they were suddenly visited by a delegation of six or eight men from the other side of the ridge, who had accidentally heard of the discovery. The newcomers proposed to divide up the mining ground, giving each man a strip ten feet front on the river and running back three hundred feet. The arrangement being in entire accordance with the customs of the time, the discoverers had to acquiesce and all the advantage they were allowed was first choice of claims.²

When quartz mining began near Oroville in the winter of 1850 and 1851, one of the first things done was to regulate the size and tenure of quartz claims; and steps were soon afterwards taken to enlarge the rules adopted and extend them over the county. In 1852 the quartz miners of the various districts of Nevada county held a meeting at Nevada City and adopted a

¹Shinn's Mining Camps, 247-249.

²Shinn's Mining Camps, 165, 166.

series of laws, which were to apply to all quartz mines and claims in Nevada county, allowing to each claim one hundred feet on the ledge including "all dips, angles and variations" or, as otherwise expressed, "all dips, spurs and angles." The discoverer was entitled to two hundred feet. A claim had to be marked and staked within three days after entry, recorded within ten days and twenty days' labor or work to the value of one hundred dollars done within thirty days; and a like amount of work had to be repeated every year until a company should be fully organized and a mill worth five thousand dollars contracted for in good faith, when the recorder was to give the company a deed to the mining property guaranteeing possession. Any citizen of the United States could take up one quartz claim and might also hold all that he should purchase in good faith. The regular county recorder of Nevada county was to serve as recorder of quartz claims. In 1855 the miners of Sierra county adopted a code in reference to quartz claims, fixing the size at two hundred feet on the lode by a width of five hundred feet; requiring work to the value of one hundred dollars every year, and allowing only such foreigners as paid the foreign miners' taxes to hold claims. In 1857 the quartz miners of Sacramento county adopted laws, very similar to those of Nevada county but allowing foreigners, who had declared their intention of becoming citizens, to hold claims the same as citizens.¹

The feelings or prejudices of the old miners against foreigners manifested itself in the rules and regulations of some of the districts. Many of the foreigners, and particularly many of those who came from Mexico and Australia, were of very bad character; and their disregard of everything like peace, honesty or order soon led to serious difficulties. Most of the early adventurers, who flocked in from Sonora and Sinaloa, though they knew something about mining, knew more about monte and brigandage and made a very disreputable class of the community. Most of the so-called Sydney Ducks had been convicts; but, being of the same blood and language as the Americans, it was more difficult to distinguish them; and if it had not been for the Mexicans and later on the Chinese, against whom popular prejudice grew so

¹Shinn's Mining Camps, 251, 252.

bitter as to be phenomenal, it is hardly likely that any movement would have been made against foreigners as such. The antipathy against Mexicans originated at the time of the Mexican war and broke out into violence on various occasions in the early days. The feeling against them thus originated was in great part the cause of the statute, imposing what was known as the foreign miners' license tax of twenty dollars per month, which was passed by the first legislature on April 13, 1850.¹ It was an ill-advised measure that had to be repealed by the next legislature;² but in the meanwhile it had provoked great opposition and indignation on the part of the foreigners and particularly in the Southern Mines, where in several instances there was great danger of bloodshed and massacre. A number of the lynch-law proceedings, of which there will be occasion to speak further on, had their origin in the feelings thus called into play and a too ready disposition on the part of some of the American miners to despise and therefore, upon every opportunity, to abuse all the Spanish-speaking foreigners as "greasers."

In addition to the laws that provided that no foreigner should hold a claim unless he had paid his foreign miners' license tax, there were some that prohibited any foreigners, except such as intended to become citizens of the United States, from mining either for themselves or others. This or something of much the same purport was not an unusual provision in the Southern Mines, until the re-enactment in 1853 of the foreign miners' license tax law with the rate fixed at the more reasonable sum of four dollars per month³—which the foreigners in general who wished to mine were willing to pay—gave them statutory rights to mine such as no miners' laws could legally abrogate or contravene. But it was when the Chinese began to flock into the mining regions and by their industry and thirst reduce the price of labor, as well as withdraw large quantities of gold for which they were supposed to leave no adequate return, that the most violent hatred against foreigners was evoked. It was in some quarters claimed that the Chinese were all thieves and among the most

¹ Stats. 1850, 221.

² Stats. 1851, 424.

³ Stats. 1853, 62.

expert of the class, as if they could at all compare with the smooth and oily-tongued white embezzlers who under the cloak of respectability could worm themselves into the confidences of their victims, and that this was the origin of the anti-Chinese feeling. But, if all the thefts by the Chinese in the mines from Siskiyou to San Diego were put together, they would form a very small part of the larcenies and defalcations that took place among the white population of the mining regions during the same period. It is necessary therefore to look deeper—and particularly to the disturbances in the demand for and wages of white labor caused by them—for the origin of the prejudice and persecuting spirit against the Mongolian that has almost from the beginning played so large a figure in the policy and politics of the state.

One of the earliest enactments against the Chinese was in Columbia district, Tuolumne county, where it was provided that neither Asiatics nor South Sea islanders should be allowed to mine either for themselves or others, and that any person, who should sell a claim to an Asiatic or South Sea islander, should not be allowed to hold another claim in the district for six months. In many other districts, as the prejudice against Chinamen continued to grow, they were by degrees excluded from holding even by purchase; but in the more respectable neighborhoods they were allowed to occupy and work grounds that had been abandoned by white miners; and, whenever they were allowed to work, they generally made money where many white men, with their habits of waste of time and means, would have starved. It was well known that rich mining ground, which had been washed over even several times by white miners, might often be washed again with profit; but when it had once passed through the hands of the Chinese there was no use manipulating it any further. On account, however, of the very general feeling against them and their exposure to persecution and abuse, especially in the outlying and remote districts, the Chinese never reached anything like threatening numbers in the mines, never attempted anything like a combined resistance and much less any attack against the whites, and never, otherwise than indirectly as has been stated, interfered with the whites in their

usual modes of making livelihoods. Driven from the mines, the Chinese became servants and work-hands and railroad builders and occupied positions of labor where they were more sure of protection from persecution; but at the same time, in their new positions and on account of the low rates of wages they accepted, they worked much more damage to white labor, which was their enemy from the beginning, than if they had all been settled in the mines and allowed full privileges there.

It thus appears that each camp or district in the mining regions had its particular rules and regulations. These differed according to circumstances; but each set or code was more or less calculated for and suited to the condition of affairs within its special jurisdiction. There was, however, with all the diversity, a tendency to simplification and uniformity of the main provisions; and by degrees a system of mining law grew up that has become of almost universal application wherever in any free country mines of the precious metals exist. The facts presented the exceedingly interesting case of the rapid growth of what may be called the common law of mining, which was in many respects, except in the matter of time, similar to the growth of the common law in general. And this growth was accelerated and helped along by the legislature, which in 1851 expressly provided that in actions respecting mining claims proof should be admitted of the customs, usages and regulations established and in force at the bar or diggings embracing the claims, and that such customs, usages and regulations, when not in conflict with the constitution and laws of the state, should govern in the decision of such actions.¹ Nor has there ever been any occasion to change or alter this legislative provision; and to this day, though many of the mines are now held in absolute private ownership under the national legislation and each proprietor uses his property as he pleases, yet where the lands are still public the customs, usages and regulations established and in force in the diggings are the law.²

The supreme court of the state has always recognized and upheld the principles of the statute that the customs, usages and

¹ Stats. 1851, 149; Hittell's General Laws, 5552.

² Cal. Code of Civil Procedure, sec. 748.

regulations established by the miners in a particular district should be considered as the law of the land in such district. In the first case brought before it, in which the question was at all involved, the court decided that the mines of gold and silver in the state, though on the public lands of the United States, were the property of the state by virtue of its sovereignty and that the state therefore had the right to authorize them to be worked, to pass laws for their regulation, to affix such terms and conditions as it thought proper upon their use, and to impose licenses in its discretion upon foreign miners.¹ As the mining customs, usages and regulations, which the state had adopted as its own, had subordinated the agricultural to the mining interests and the legislature in 1852 had expressly re-enacted the same principle,² the supreme court next decided that any person had the right to work any mines upon public land notwithstanding such land was in the possession and enjoyment of another person for agricultural purposes.³

But while the court held that the public mineral land was in general open to the entry and occupancy of every person, who in good faith should take possession for the purposes of mining, and that his rights to the use of the land and such of its appurtenances as were necessary to his mining operations were predominant over those of the mere agriculturalist, it also held that the rule had its limitations in the principle that there were some other rights that were equally entitled to protection from the sovereign power. Among these were the rights of prior appropriators to their valuable, permanent improvements such as houses, orchards, vineyards, growing crops and reasonable inclosures around buildings.⁴ In 1855 the legislature, recognizing the justice of the same principle, passed a statute prohibiting any person

¹ See *People vs. Naglee*, 1 Cal. 232; *Hicks vs. Bell*, 3 Cal. 219.

² Stats. 1852, 158.

³ *Stoakes vs. Barrett*, 5 Cal. 36; *McClintock vs. Bryden*, 5 Cal. 97; *Irwin vs. Phillips*, 5 Cal. 140; *Fitzgerald vs. Wilson*, 5 Cal. 308; *Tartar vs. Spring Creek W. and M. Co.*, 5 Cal. 395; *Burdge vs. Underwood*, 6 Cal. 45; *Conger vs. Weaver*, 6 Cal. 548; *Merced Mining Co. vs. Fremont*, 7 Cal. 317; *Boggs vs. Merced Mining Co.*, 14 Cal. 279; *Clark vs. Duval*, 15 Cal. 85; *Smith vs. Doe*, 15 Cal. 100.

⁴ See, among other cases, *Irwin vs. Phillips*, 5 Cal. 140 and *Smith vs. Doe*, 15 Cal. 100.

from destroying for mining purposes any growing crops of grain or vegetables or injuring any buildings or fruit trees; enacting that no person should occupy or use any mineral lands, on which there were crops or improvements, without first giving a sufficient bond to pay all damages to such crops or improvements that the owner might thereby sustain; and making it a misdemeanor, punishable by fine or imprisonment or both in the discretion of the court, to violate the act, with a proviso, however, that nothing therein should prevent miners from working any mineral lands in the state after the growing crops on the same had been harvested.¹

A number of interesting incidents and some curious conflicts arose out of the rights thus claimed by miners to enter upon, occupy and work mining ground in the possession of others. One of the most remarkable of the former class took place near the site of Grass Valley in Nevada county in 1850. Two persons had taken possession of a large field of meadow land, put a brush fence around it, and prepared to make hay, of which they could cut two heavy crops each year. Hay was very valuable in those days, readily selling for eighty dollars per ton; and the agriculturalists confidently counted upon making at least four hundred dollars per acre that summer. But one day, while the first grass was still growing, a prospector from the outside of that Eden climbed over the brush fence, sank a prospect-hole into the soil, struck "pay gold;" and in less than twenty-four hours afterwards the entire meadow was staked out in claims of fifty feet square; and it is said that the two farmers, instead of staking out claims for themselves, supinely stood by and allowed themselves to be despoiled of everything. But whatever loss they might suffer, they could not complain, or expect to be listened to if they did, because their possession of the land for the purpose of cutting hay was, by the custom and law of the land, subject to the right of anybody, who found gold in it, to take superior possession for mining purposes.²

As a matter of fact in many places, both in the Southern and in the Northern Mines, many farms and cultivations were dug or

¹ Stats. 1855, 145; Hittell's General Laws, 4646.

² Shinn's Mining Camps, 264.

washed away and the soil of large tracts of country, down to the bare bed-rock, upturned and carried off into the sluice boxes. So also in some cases villages and towns had to be moved to other spots, while their original sites, proving to be rich in gold, were being riddled and sifted for their precious grains. But in one famous instance a town street proved too much for the miners who had attempted to dig it away. It was one of the cases of conflict above referred to; and it occurred in Nevada City in 1851. Several miners planted themselves in the middle of Main street nearly in front of the office of the South Yuba Canal Company, then the main business center of the town. A store-keeper who was selling goods near by and saw that the disturbance of the street would seriously interfere with his occupation and profits, expostulated with the miners; but they answered that the mining business was the most important in the country and all others had to yield to it, and that, as there was no law against digging in the streets if there was gold there and they knew there was, they proposed going on with their digging. "Very well," replied the merchant, "if there is no law against digging up that street, I'll make one;" and, going into his store for a moment, he came out again with a large-sized revolver, the threatening looks of which immediately convinced the miners that they had made a mistake in their jurisprudence; and from that time forward a precedent was considered as established that the public streets of Nevada City were more valuable as streets than as mines, and that no one could safely squat upon them as mining ground.¹

Trouble of the same kind in reference to the right to dig up streets occurred at Jamestown in Tuolumne county in 1853 and at various other places throughout the mining regions; but in general the mining interests were so large and powerful as to maintain in force the original doctrine of their predominance in the eye of the law over those of agriculture. Most of the raising of grain, fruits and vegetables took place in localities where there was no pretense of mines; and the few farms and gardens and villages that were disturbed did not consider it worth while to fight the encroachments of the miners and would doubtless not

¹ Bean's History and Directory of Nevada County, 84.

have been successful if they had. But in the course of twenty-five or thirty years, it was found that the navigable rivers and bays as well as smaller streams were being filled up and thousands of acres of farms destroyed by "débris" and "slickings," as the coarse and fine washings from the hydraulic mines were respectively called; and at the same time the agricultural and horticultural interests had begun to assume a position in the economy of the country far surpassing in importance any that had ever been enjoyed by the mines. The consequence was a desperate struggle between the valley farmers and the mountain miners. In 1880, by which time the rival interests were well defined and pitted against each other in bitter conflict, it was estimated that over a hundred million cubic yards of gravel, sand and clay had been washed into the Yuba river; that the original bed of the stream had been raised in some places as high as seventy feet, and that between fifteen and twenty thousand acres of the finest land in the state had been seriously injured and much of it destroyed.

In the meanwhile the United States government, notwithstanding repeated propositions made to impose federal licenses upon the working of mines and to adopt a system of dividing up and disposing of mining ground, did not see proper to place any such restrictions upon the industry or in any way interfere until a comparatively recent period, when provision was made by the laws of congress for granting patents to mines and thereby vesting them in absolute private proprietorship. Up to that time its policy had been to keep the mines wide open to the industry of everybody that desired to work them and to encourage such industry by withdrawing mining grounds from pre-emption. In 1866 it passed an act recognizing the force of local mining customs or rules of miners when not in conflict with the laws of the United States. And very shortly afterwards it commenced its legislation, based upon such custom and rules, which has since been improved and perfected into an admirable system for the subdivision and disposition of the mines.¹ While these changes were going on and miners were securing or beginning to secure titles to their mines, the titles to agricultural lands in the mining

¹ U. S. Statutes of July 26, 1866, July 9, 1870 and May 10, 1872.

regions and along the streams threatened by the débris were being settled by adjudication or secured under the land laws of the United States;—so that, when the final struggle between the agricultural interest on the one side and the mining interest on the other came on, there was this difference in the situation of the parties, that both were proprietors of their respective lands whereas neither had been so before. The courts of California had already decided that the owners of lands held under Spanish or Mexican grants or by patent from the United States were themselves the owners of all the mines and metals in their soil and could protect themselves against the claims of everybody else.¹

The question in the final struggle referred to arose in various suits of a representative character brought by the owners of agricultural lands, that were threatened, for the purpose of enjoining mining companies from running their tailings and other mining refuse into the streams. The interests involved were by that time so extensive that powerful combinations of influence were formed and large sums of money collected on each side to carry on the litigation; and it was fought with extraordinary earnestness and persistence. In 1884 the supreme court decided—and the course of decision has been the same in later cases—that it was unlawful for the owner of a mining claim to work or use it so as, either directly or indirectly, to cover the agricultural land of another with gravel and sand or other material, which would injure or render it valueless.²

At the present time, therefore, the early predominance of the mining over the agricultural interest may be considered as substantially a thing of the past. It still exists where the ground is all public and there are the same conditions that prevailed in the olden times when mining customs and regulations crystallized into the recognized law of the land. But now both the agriculturalists and the miners occupy different situations; and their positions in respect to land and to each other have materially

¹See, among other cases, Boggs *vs.* Merced Mining Company, 14 Cal. 279 and Henshaw *vs.* Clark, 14 Cal. 460.

²See, among other cases, Hobbs *vs.* Amador and Sacramento Canal Company, 66 Cal. 161.

changed. Almost all of the valuable mines in the state are now held under patents and over them their proprietors have full and absolute control to work them as they see proper and to enjoy the products according to their own will and pleasure. But at the same time almost all the lands of the state, fit for farms or orchards or gardens or cultivation of any kind, that could ever have been interfered with by mining, are also held in absolute private proprietorship; and the rights of the agriculturalist to the undisturbed and undiminished enjoyment of his property are as sacred in the eyes of the law as those of the miner. And in public opinion—which is to a very great extent the maker and master of the law—in view of the incalculably greater importance to the state of the agricultural and horticultural interests than all the millions of gold that are now being extracted from the mines of California or than all the millions that were extracted at their period of greatest production, if there is to be any predominance of one interest over the other, it will doubtless be in favor of the tiller of the soil, whose labor, instead of exhausting, benefits the land and, in proportion as he in a husbandlike manner makes it yield annual returns, leaves it richer than he found it.

CHAPTER XII.

LYNCH-LAW IN THE MINES.

BUT the most instructive and in many respects the most significant occurrences of the early mining times—and those which exhibit in the strongest light the characters of the old miners and their efforts, blind and ill-advised as they often were, to administer justice and secure order—were the irregular, spontaneous and sometimes violent proceedings known as cases of lynch-law, mob rule or vigilance committee work. Specimens of proceedings of this kind have already been narrated; but the study of them may be profitably extended. There were so many of them throughout the mining regions and they were such natural outgrowths of the condition of the country that, though not unfrequent in some other localities, they came to be regarded as almost peculiarly Californian.

One of the first cases appears to have taken place in the latter part of 1848 and in the neighborhood of the Calaveras river. A sailor, who had deserted from the ship Ohio and gone into the Southern Mines, undertook one night to rob an ex-volunteer of the army, who had set up a drinking shop. He had secured two bags, containing about five thousand dollars worth of gold; but, in trying to remove a third, which was half full of silver dollars, the jingling of the coin awoke the owner. The latter at once sprang up and gave the alarm; and, after a hot pursuit, the thief was captured and securely bound to a tree, that being the best method which could be devised at the time for securing him. In the morning a meeting of the miners of the immediate neighborhood was called; and they swore in one of their number, named Nuttman, as judge and twelve others as jurymen to try and dispose of the case. There was of course no doubt of the guilt of the accused; and he was found guilty and sentenced to be hanged. But there was considerable opposition

on the part of some of the miners to depriving a fellow creature of life; and, upon the suggestion of a milder punishment, it was determined that the culprit should receive a hundred lashes on his bare back and have his ears cut off and his head shaved so that he might be everywhere recognized in the mining districts as a felon. This modification of the sentence gave general satisfaction. The poor wretch was at once triced up by tying his hands to branches of the tree; and some of the miners proceeded to shave off his hair, while others set to work manufacturing lashes. His feet were then tied to the foot of the tree and, when his head had been shaved, a doctor lopped off his ears. He bled profusely; but no sooner was the flow of blood staunched than the flogging commenced; and it was inflicted without missing a lash. He was then released and kicked out of the camp.

According to the account given of the occurrence by a person who claimed to know the facts, the bleeding man, upon getting about half a mile distant from and out of sight of the camp, stole a mule and rode over to what were known as the "Calaveras Diggings." There he happened to meet the owner of the mule, who recognized and claimed his property; and the result was a second trial—this time for mule stealing—a conviction and a sentence to suffer another flogging. But when the Calaveras miners came to strip him, they found his back so shockingly cut up by the lashes he had previously received that they took compassion on him and contented themselves with driving him out of the district with a caution not to show himself there again; and it appears that the caution was effective. "There's nothing"—added the narrator, who was an old volunteer and had been among the first after being discharged from service to rush off to the mines—"There's nothing like lynch-law, after all. It's so prompt and so effectual!"¹ Bayard Taylor appears to have met the same man some months afterwards on the coast mountains between San José and Stockton and, speaking of his punishment and the offenses for which he suffered, remarked that, though it might conflict with popular ideas of morality, nevertheless the extreme course adopted appeared to have produced good results.²

¹ Ryan's Personal Adventures, II, 62, 64.

² Bayard Taylor's El Dorado, 92.

The lynch-law proceedings in January, 1849, from which Hangtown, afterwards Placerville, derived its name, as has been already stated, were for the purpose of trying and punishing five men who had been caught in the act of attempted robbery and larceny. They were conducted in much the same manner as those above mentioned by an improvised judge and jury; but the sentence to thirty-nine lashes, to be inflicted on each delinquent, was more lenient. It was not until after the flogging was over and justice apparently satisfied, that additional charges were presented against three of the men for robbery and attempted murder on the Stanislaus river the previous autumn; and then, instead of a jury of twelve, all the miners of the camp, some two hundred in number, resolved themselves into a jury. Upon trial and conviction, which seems to have been unanimous, the unhappy prisoners were sentenced to be hanged. Such were the circumstances and the position of affairs, when Lieutenant Buffum, as has been shown, mounted a stump and in the name of God, humanity and law, protested against such an execution. Buffum's account of the matter was that the crowd was thoroughly brutal and that they were incited by deep potations of strong drink. However this may have been, they were evidently not to be influenced by his harangue, but threatened him with sharing the fate of the condemned if he did not immediately desist from publicly arraigning the propriety of the action of the community. It is not probable that they regarded Buffum's remarks as dangerous or likely to cause trouble; and it is not for a moment to be believed that they would have carried out their threat to hang him with the others if he had continued his protests; but it is certain that the crowd had a very clear perception of what they desired to accomplish and were very earnest in accomplishing it.¹

On the last Sunday of May, 1849, a drunken row occurred at Ford's Bar on the Middle Fork of the American river. Two men having got into a fight, one of them was struck so violently with a crowbar as to be knocked into the stream, when the other followed and the two grappled and fought in the water. The noise attracted their respective friends; but they, instead of

¹ Buffum, 83-85.

pacifying the combatants, got into a quarrel among themselves, which soon led to the drawing of knives and threatened to assume a bloody aspect. When matters were apparently very near their worst, a miner named Graham, a man of unusual strength and energy, seized a musket—said afterwards to have been an empty one—and, having created a momentary lull, threatened to shoot the first man that should renew the contest. As it appeared that he meant what he said, he soon succeeded in restoring quiet, when a proposition was made among the more peaceful and orderly of the miners to take steps to prevent for the future any recurrence of such a disgraceful scene as had just been exhibited and wipe off from Ford's Bar the reputation, which it had gained, of being the worst place on the river. A meeting was accordingly called, and it was determined, after some discussion, to enact a few very simple rules calculated to secure the peace and quiet of the camp; and, as officers to see the laws thus adopted properly executed, Graham was chosen alcalde and a bulky Missourian sheriff.

The very next day, as it happened, there was occasion to test the efficacy of the new arrangement. An individual, said to have been a tinker by trade, who appears to have been mining on the other side of the river, swam the stream and, going to the main store of the place, procured four bottles of brandy, which he tied around his neck, and then plunged into the river again for the purpose of re-crossing. In the stream he attempted to perform a few antics; but the current proved too strong for him, burdened as he was, and carried him into an eddy, where he found it necessary to let go his bottles to save himself from being engulfed. As he scrambled out of the stream, his partner, a bully, who stood on the bank, commenced abusing him for losing the liquor; and the result was a fight between the two in the course of which the tinker, picking up a junk bottle, used it for striking, while his antagonist drew a knife and inflicted several cuts and gashes. Both were arrested, taken before Alcalde Graham and put on trial before him and a jury of three persons, as provided for by the new code, with the result that the tinker was acquitted on the ground that he was the attacked party and there was no law against using a bottle

to strike with, while his partner was convicted of unlawfully drawing a knife—an offense which had been expressly provided against. In accordance with the verdict Graham thereupon sentenced the latter to pay a fine of twelve dollars, apparently to cover costs, and leave the Bar within twenty-four hours under penalty of a severe flogging; and early the next morning he was seen ascending the mountain that bounded "Ford's Bar and the adjacent diggings" in search of a healthier district. He was said to have gone down the river and to have been shot a few months afterwards in a quarrel in the neighborhood of Mormon Island.¹

It will be noticed that in the above instance an alcalde was elected, who was intended to act in other cases besides that which had been the occasion of calling him into existence. In almost all the mining settlements of the winter of "'49 and '50," such an officer was chosen and it was understood that he was to be the chief minister in the punishment of crimes and as a general rule preside in all judicial trials and, among them, lynch-law proceedings. In the absence of regular law and on account of the unsettled state of the country, the authority he exercised was very extensive and sometimes arbitrary; but he could only hold his office so long as his action gave satisfaction to the community; and he was consequently restrained from committing any very great excesses. On the other hand the miners in general treated him with respect; and, recognizing him as peculiarly depending upon and being much more than any one else the mouthpiece of public opinion, they supported him and were ready at almost any cost to uphold his decisions, which were in substance their own. He was the general conservator of the peace and preserver of order; and in very many and perhaps the majority of camps, where the office was filled by a quiet, firm and unobtrusive man, there was as good security and as complete protection to life, limb, property and personal rights as anywhere else in the world. Bayard Taylor, though perhaps a hasty and superficial observer, was very forcibly struck with what he saw of popular government in the mining camps and called it the spontaneous evolution of social order from the

¹Golden Dreams and Leaden Realities, 181-183.

worst elements of society. He was indeed so surprised with what he witnessed, evidently not fully appreciating the true character of the better and controlling classes of the miners, that he was disposed to pronounce it miraculous and said that it was a lesson worth more than the gold.¹

In the autumn of 1849 an exhibition of summary justice took place at Stockton. Three negroes, while on a drunken revel, entered the tent of a Chileno and attempted to assault his wife; but fortunately the husband was within call and drove them off. As they retreated, balked in their base design, they revengefully turned around and fired their pistols at the tent, though without hitting any one. Complaint having been laid before the alcalde of the outrage, two of the negroes were seized and identified. A jury was forthwith summoned, witnesses examined, and a verdict rendered without delay. The principal offender was sentenced to receive fifty lashes, well laid on, and the other twenty, and both were to leave the place within forty-eight hours after the flogging under pain of death. The first part of the sentence was immediately carried into execution. The culprits were stripped, tied to a tree standing in the middle of the principal street and flogged in accordance with the terms of the sentence in the presence of the alcalde, the sheriff and a crowd of spectators. The crowd, however, was much less orderly than was usual on such occasions. They laughed at every cut of the lash and accompanied it with a hurrah or some unfeeling remark—possibly as an expression of reprobation of the offense but under any and all circumstances coarse and brutal. Some of the by-standers expressed themselves as opposed to flogging; but the better opinion of the more intelligent and less sentimental part of the community was that, in the absence of prisons and guards, there was no alternative except the sterner one of capital punishment.²

A very remarkable case of lynch-law occurred at Placerville in 1849, not very long after the events which gave that place the name of Hangtown. A young man, generally known as Irish Dick, having had a difficulty with another person at a gambling table, waylaid and murdered him. There does not appear to

¹ Bayard Taylor's *El Dorado*, 263.

² Bayard Taylor's *El Dorado*, 99.

have been any doubt about his guilt, nor was this his first offense. Under the circumstances the miners made short work of trying, convicting and sentencing him to be hanged. They took him to a tree, which was probably the same that had served a similar purpose before, and tied a rope around his neck. But, instead of hauling him up, they allowed him to take the other end of the rope, climb the tree, fasten it to a horizontal limb and, at the drop of a handkerchief, jump off. He seems to have asked this as a favor; and, performing his part of the sad business with apparent cheerfulness, he jumped so as to break his neck and died without a struggle.¹

In October, 1849, at Mormon Island an altercation took place in a tent used as a liquor saloon between an unruly customer and the bar-keeper. The former insisted upon getting over the counter, while the latter threatened to shoot unless he desisted. At this the former became very abusive and advanced with demonstrations of violence, when the latter fired his pistol and shot his adversary down. A crowd soon collected, which took the bar-keeper into custody; and in the evening a judge and twelve jury-men were appointed to investigate the facts and administer justice. On the trial it appeared that the man shot had been partially intoxicated and very abusive and at the moment of being shot was in the act of climbing over the counter to attack the bar-keeper; but it also appeared that the shot, which was through the shoulder, though painful, was not likely to be fatal. On this state of facts the court and jury acquitted the bar-keeper, but at the same time appointed a person to administer to him a reprimand and caution as to his use of fire-arms, which they considered unjustifiable. The eye-witness, who gave the account of the proceedings, said that the court was held in a large tent occupied as a hotel; that the judge presided with dignity although he wore a red flannel shirt and slouched hat, and that the jurors were a fair average of Californian miners. He added that the deliberations were carried on without ostentation; that the prompt, earnest and determined but fair manner of proceeding clearly showed that the people of Mormon Island were decidedly in

¹ California Illustrated, &c., by J. M. Letts, New York, 1853, 109.

favor of law and order, and that in his opinion the effect of the trial would be salutary.¹

Rough and Ready in Nevada county presented one of the first instances of a vigilance committee, properly speaking. When the place was first settled in April, 1850, there was a great rush of miners to it. In a very short time its inhabitants were to be counted by thousands; and, on account of various thefts, robberies and deeds of violence and outrage, the necessity for some kind of government became painfully apparent. The locality at that time, being before the organization of Nevada county, was within the jurisdiction of Yuba; but there was neither alcalde nor justice nor peace officer of any kind nearer than Marysville, or Nye's Landing as that place was then usually called; and the people of the mountains were certainly not going to go down there to secure a little justice, which they considered within their own reach and possibly of better quality than they would get in the valleys. In view of all the surroundings the community assembled in mass-meeting and appointed a committee of three persons, consisting of H. L. Roberts, James S. Dunleavy and Emanuel Smith, to assume the reins of government as a committee of vigilance and safety. They were to look after the public order and to administer justice; and from their decision there was to be no appeal, except of course to the people from whom they derived their authority. They immediately assumed control and ruled, as was said, with an even and equitable hand. They laid out the town; marked off each man's premises; appointed a constable; issued writs; heard and determined all disputes concerning mining claims or town lots and all controversies of every kind, calling a jury when the parties desired it; took bonds for appearance from persons charged with offenses, and punished those convicted of crime. On one occasion a man was flogged with thirty-nine lashes for stealing, then escorted to the lower edge of the settlement and, with a parting kick, cautioned never to appear in those diggings again under penalty of death.²

The success of the committee of vigilance and safety in the

¹ Journal of a Voyage to California and Life in the Gold Diggings, &c., by Albert Lyman, Hartford, 1852, 121, 122.

² Bean's History and Directory of Nevada County, 360.

government of Rough and Ready was so great that it put into the head of one of the miners, named Brundage, an idea of forming a separate and independent sovereignty, to be called the "State of Rough and Ready." He appears to have had enthusiasm and one-sidedness enough, and to have lacked intelligence sufficiently, to be really in earnest in his project. He called a mass-meeting, which was largely attended, and proposed his scheme, urging that as he and most of his hearers had not voted for the constitution of the state of California at the recent election, they were not bound by it. Whether any person was in fact persuaded by him may be a matter of doubt; but there were a number—perhaps a hundred—who pretended to favor his plan; and poor Brundage, with more than Quixote's fervor, continued to agitate its adoption. The more it was talked about, the more ludicrous and absurd it appeared; but for a long time, in every cabin and beside every rocker and long-tom, for miles up and down the Yubas, men could be heard talking up Brundage's state of Rough and Ready though themselves prepared, every one of them to a man, if necessary, to shed the last drop of his blood in support and defense of the state of California.¹

Lynch-law proceedings were generally considered so necessary in the unsettled condition of the country and were regarded with so much favor, that sometimes heinous crimes were committed in their name. Occasionally wicked men and sometimes drunken men got control of the proceedings; and in either case the result could not be otherwise than bad. In one instance, in 1850, and in what is now Nevada county, while an infamous combination known as the "forty thieves" was in existence, a number of them seized, pretended to try and convicted an innocent man of stealing three hundred dollars and proceeded to inflict upon him fifty lashes; and the actual thief stood by and encouraged them in their work. On another occasion in 1851, at Bridgeport in the same county, a drunken crowd enacted the farce of a lynch-law trial and hung an innocent man on the supposition that he was one Knowles, a notorious Oregon and California horse-thief. It

¹Shinn's Mining Camps, 225, 226; Bean's History and Directory of Nevada County, 363.

was said by a person, who took occasion to follow the history of the jurors and others that officiated prominently in these proceedings, that every one of them died afterwards by violent or rapid death—either by shot, stab, bludgeon, drowning, cholera or fire.¹

On the morning of July 10, 1850, four Americans made their appearance at Sonora in Tuolumne county, having in custody a Mexican and three Mexican Indians charged with having committed a horrible murder at Green Flat Diggings about eight miles distant. It was in the time of the notorious Justice Barry, already mentioned; and the accused were taken before him for examination. A great crowd collected in front of his office; and when the prisoners were arraigned, a scene of unparalleled tumult and confusion took place. Cries of "Hang them," "String them up," "We'll have no mistake this time" were heard on every side. The alleged crime was said to have been the third or fourth murder in the same neighborhood within a week. At length ropes were procured and nooses tied in them; and a demand was made for the prisoners while the officers of the court endeavored in vain to quiet and restrain the mob. Meanwhile the examination proceeded inside the court-room. The witnesses testified that, having heard that a murder had been committed at Green Flat Diggings, they had proceeded to that place and found the prisoners in the act of burning the tent and bodies of two men. The defense was that it was the custom of the country and countrymen of the prisoners to burn the dead; that the bodies referred to, having been dead several days, had become offensive, and that, in order to dispose of them according to the Indians' notions of propriety, they had proceeded to burn them. On account of the reasonableness of this defense, when it was resolved to put the accused upon their trial, almost every man drawn upon the jury refused to serve; and the position of affairs became very perplexing.

By this time, however, the crowd outside, having elected an individual named Peter Mehen as judge and leader, made a rush for the prisoners; seized them; put a rope around the neck of each; led them out in a sort of procession to a hill near the

¹ Bean's History and Directory of Nevada County, 362.

town and then proceeded, in regular lynch-law style, to try, convict and sentence them to death. The rope of the Mexican, who was to be the first victim, was then passed over the limb of a tree; and he was given a few moments' time to prepare himself for execution. He accordingly knelt down and, drawing a crucifix from his bosom, kissed it with fervor, at the same time praying for the redemption promised by the church. He then, in a very gentle and affecting manner, gave notice that he was ready and resigned himself to the executioners. But just then, Judges Marvin, Tuttle and Radcliffe, who had but a moment before arrived with William Ford, the county clerk, and others, mingled in the crowd and managed to create a diversion, which enabled the proper officers to regain possession of the prisoners, carry them back to town and lodge them in jail. There they remained for several days, without any further indication of mob law, until the next Monday, when their trial was to come off before the newly constituted district court. On that day eighty armed men arrived from Green Flat and demanded that justice should be done on the murderers of their neighbors; and other large crowds of armed men came in with similar demands from Jamestown, Shaw's Flat, Columbia, Wood's Creek and other places. These crowds collected in front of the court-house, whereupon Judge Tuttle addressed them, urging moderation and assuring those present that justice should be done. The prisoners, he said, should be tried fairly; if they were found guilty, they should certainly get their deserts; but, if innocent, they would surely be acquitted; and he hoped no man could find fault with so proper and honest a proposition. The crowd was not entirely satisfied; but they finally withdrew, leaving only a guard around the jail.

On a sudden rumor that the prisoners had Mexican colleagues in a camp several miles distant, Sheriff George Work proceeded thither, with a posse of twenty men, and arrested almost the entire adult population of that camp, numbering over a hundred persons, brought them to town and confined them in a cattle corral under a strong guard. In the course of the same afternoon, several hundred more men arrived from surrounding camps, swelling the number of the mob to about two thousand

persons, almost all of whom were in favor of summarily executing the prisoners; and against them the county officers stood alone. But they were equal to the task and especially Charles M. Creaner, who had just taken office as judge of the district court, Sheriff Work, Clerk Ford and Samuel A. Booker, district attorney. When the case was finally called for trial, and a plea of not guilty interposed on behalf of the prisoners, a gun in the hands of one of the guards dropped and was accidentally discharged; whereupon numerous revolvers were drawn and some knives unsheathed; and the tumult became indescribable. One man, in his haste to get out, fired a second gun; and the confusion became tenfold more violent. Every one tried to escape; and doors, windows and in fact all possible means of egress were made use of. An alarm of fire added to the clamor and excitement, while several additional shots, said to have been fired "on general principles" in the direction of the prisoners, though without striking them, made the confusion still more confounded. The result was a postponement of the trial until the next day; and that evening the rioters went on a spree of such magnitude as to threaten serious consequences. But the excitement gradually subsided; and in the morning most of those from other places went off to their own camps, leaving Sonora in comparative quiet. On the resumption of the trial, it was found that the evidence was not sufficient to warrant a conviction of the prisoners and that the prosecution against them was in great part the mere outgrowth of the popular prejudice against foreigners; and they were accordingly acquitted and discharged.¹

Whether the accused were innocent or not may be a matter of doubt; but it is certain that crime was rampant in the Sonora region and that the better part of the community was determined to put a stop to it one way or another. In view of the excitement, it is likely that the prisoners in the above-mentioned case would have suffered, whether innocent or guilty, but for two reasons. One was the fact that the intemperance and disorderly conduct of the crowd and their open and violent prejudice against foreigners produced an opposition party among the better class of the miners; and the other was that the new judiciary,

¹ History of Tuolumne County, 39-44.

provided for by the state constitution, had just assumed office; and there was a disposition among a great many persons to try the efficiency of the new courts to protect the community. But it was soon found that with the technicalities that had grown up in the body and substance, as well as in the procedure, of the criminal law, and especially with the courts as then constituted, it was next to impossible to convict any person of crime, however guilty, who had money or friends to secure a lawyer. And it was for this reason considered in most quarters that the same necessity and the same justification existed as before for a resort, on the part of an outraged community, to lynch-law or a summary administration of justice outside of the inadequate remedies afforded by the regular tribunals.

In February, 1851, while one Joshua Holden was cultivating certain ground, known as Holden's Garden, on Wood's creek in Tuolumne county, a party of miners, called the Washington Company, entered and laid off an extensive mining claim. Holden thereupon proposed an arrangement by which he was to receive compensation from the new company for all damages done by them to soil and growing crops; but, at a meeting held for the purpose of considering the proposition it was voted down. The next day a personal collision took place between Holden and two members of the company, in which a number of by-standers participated on the side of Holden, while the other side was assisted by other members of the company. Pistols were drawn though not at first used. Later in the day, however, fourteen of the Holden party prepared to "jump" a part of the claim of the Washington Company and hold it at all hazards. Upon reaching the ground, they found their adversaries prepared with fire-arms to receive them. While standing opposed to each other, a hot-headed young man named Alexander Saloschen of the Holden party, losing all control of himself and acting in direct opposition to the remonstrances of his companions, fired at the opposite party, which immediately returned the shot; and all the fire-arms on each side were then discharged, amounting in all, it was said, to from sixty to seventy shots. One man named Leven Davis of the Holden party was killed and Saloschen was wounded in the cheek, while three of the Washington Company were disabled, and two of them afterwards died of their wounds.

Soon after the fight, a rumor was spread about that the gamblers, some of whom had assisted Holden, had taken up arms against the miners; and the result was an excitement and the holding of a mass-meeting at Sonora for the purpose of taking such action as the exigency might require. This meeting, however, instead of proceeding in a spirit of fairness, adopted a series of resolutions prejudging the case, characterizing Holden and his friends as a party of cut-throats and gamblers and pronouncing them guilty of an attempt at premeditated murder. It proposed that they should be immediately arrested and tried by the civil authorities of the county and pledged itself, in the event of any future aggression by Holden or his abettors, to rid the region of their presence; and in the meanwhile it pledged its sacred honor to carry out its resolutions, to render its assistance, if necessary, in apprehending the accused and to prevent from that time the use of fire-arms in determining disputes. But the purpose of the meeting, if it had a good one, was entirely defeated by the violence of its language and prejudices; it did not redeem its pledges; it did not accomplish anything. Several persons were arrested, and Holden for himself invited the most rigid investigation; but either because nothing could be shown against him or because nobody had any confidence in the court or prosecution, no one appeared against him; and he was exonerated from all blame.

Not long afterwards a quarrel occurred between Tyndal Newby and A. J. Fuller, who were partners engaged in mining at Smith's Flat in the same county. Newby appears to have found fault with Fuller principally on account of his taking partnership funds to gamble with; and a fight occurred in which Fuller was thrown. Though down, Fuller is said to have held on to Newby until the latter, by throwing hot coals and ashes conveniently at hand into his antagonist's face, managed to disengage himself and then tried to get away. But as he did so, Fuller sprang up, seized his rifle and fired a fatal shot into Newby's body. Being arrested and tried before the district court for the killing, Fuller secured good lawyers; and the result was a verdict only of manslaughter and a sentence of nine months' imprisonment and a fine of one hundred dollars. About the same time, while a miner,

named George Palmer, was eating supper in the Arkansas Hotel in Sonora, a rough character, known by the name of John Thornley, who had already killed one man, entered with revolver in hand and ordered Palmer out of the house. Palmer, who was apparently unprepared for a rencounter, left the house and had gone about a dozen paces, when Thornley fired two shots, the second of which inflicted a deadly wound. Thornley at once fled, but was subsequently arrested and brought to Sonora, where a popular meeting was held and an attempt made to get possession of him but without success. Being examined and committed, he broke jail and escaped. But being recaptured several months afterwards and brought to trial before the district court at Sonora, he was acquitted and set free.¹

In June, 1851, just after an extraordinary lull of two weeks in which not a single case of felony occurred, one of the most diabolical murders in the history of Tuolumne county took place at Dragoon gulch near Shaw's Flat. Three Mexicans, having purchased a long-tom of Captain George W. Snow, told him to call at their tent the next morning for his pay. This direction, as it afterwards turned out, was only a ruse to secure his presence, it being known to the Mexicans that he always carried a large amount of money upon his person. On entering their tent he was assaulted and stabbed twice; but he managed to get away, calling for assistance as he did so, and ran some fifteen yards before he fell. His wounds were mortal and he died at midnight. Upon going to the tent where the stabbing had occurred, it was discovered that the Mexicans had dug a grave in one corner to receive the body of their victim and covered it from view with a rawhide and blankets. This discovery, more perhaps than the stabbing, occasioned a great excitement; and large rewards were offered for the apprehension of the murderers, who in the meanwhile had concealed themselves. On the next Monday, however, two of them, named Antonio Cruz and Patricio Janori; were arrested in Sonora; but, instead of being held for trial before the district court, they were at once removed to Shaw's Flat for trial by lynch-law before a people's court. There does not appear to have been a single dissenting voice to

¹ History of Tuolumne County, 60-63.

this course:—on the contrary it was the universal opinion that the district court and the kind of justice dispensed there would not do, and the people would not stand it.

At Shaw's Flat, where the murder had been committed, a lynch-law court was soon organized, and by men who had previously been prominent in upholding the district court. A jury was called in the case of each of the prisoners; and they were tried as fairly and impartially as it was possible for any one to be tried. It appeared from the ante-mortem deposition of the deceased that at the time of the murder, while Antonio who was young and small of stature was standing at a table in the tent and pretending to weigh out the price of the long-tom in gold, Patricio, who was large and athletic and had a face marked with the brand of Cain, came up and stabbed the murdered man from behind. There was an attempt made to prove an alibi; but it failed completely. Both prisoners were convicted; and their disposition being left to the multitude, it was decided that both should be forthwith hanged on the precise spot where they had committed the crime and be buried in the grave they had dug for their victim. Only an hour was granted them to see a priest and prepare for death, after which ropes were adjusted about their necks and they were swung off on an improvised gallows over the grave they themselves had dug and soon filled. Just before execution Antonio confessed that he knew the murder was to be committed, though he claimed that he was not a party to it; and he further said that Patricio had been concerned in the murder of other Americans but had up to that time managed to escape suspicion.¹

Soon afterwards Jim Hill, a man of well-known bad character, accompanied by others of the same stripe, entered a store at Campo Seco; and, while he held his pistol at the head of the proprietor, his accomplices removed the iron safe with its contents. A few days later Hill made his appearance at a low Spanish house in Sonora, where getting into a quarrel with a stranger he snatched the latter's pistol, beat him over the head and then fired at him. The stranger, frightened at the violence of the attack, ran into the street and with his cries created an

¹ History of Tuolumne County, 74-76.

alarm, whereupon Sheriff George Work went to the place, found Hill concealed under a bed, pulled him out and removed him to jail. In the morning a crowd of citizens went to the jail; took Hill from the officers and conveyed him to Campo Seco for the purpose of trying him by lynch-law for the robbery of the store. At that place there was a trial in the usual form, a unanimous verdict of guilty and a sentence of death. To this sentence, however, there was some demur. The punishment of death for robbery was unusual even in lynch-law proceedings; but there had been so much crime of that kind and it seemed so greatly on the increase that the state legislature shortly before had given juries a discretion to impose the death penalty¹ and the jury in this case assumed to follow the statute. But on the same evening, when Hill was led forth to die, being allowed to address the crowd, after describing his life as one of crime, acknowledging that he had committed thefts and robberies and warning others against following his example, he strenuously and positively denied having ever shed blood and threw himself upon the mercy of the people.

Under the circumstances it was thought proper to put the question to the crowd, as to whether the sentence should be carried out; and when it was so put, a large number shouted "aye;" but an equally loud shout was raised in the negative. Great excitement resulted; hundreds drew their pistols and a sort of universal jumble ensued, with men and horsemen swaying and surging in every direction and in apparently inextricable confusion. But at length, order having been restored, several persons addressed the crowd, some in favor of and some against hanging, when Sheriff Work, who had meanwhile arrived, asked to be heard and pledged his life that, if the prisoner were delivered up, he would produce him for trial at the next session of the district court. He was answered by the advocates of hanging with loud cries of "Thornley! Thornley!" alluding to the escape from jail and subsequent acquittal of that notorious murderer, which had been the last proof of the inadequacy of the regular administration of the criminal law to secure the protection of the public. In the confusion that followed, Hill

¹ Stats. 1851, 406; Hittell's Gen. Laws, 1459, note c.

was thrust into a carriage and hastily driven off with the sheriff and accompanied by several men on horseback towards Sonora. The move was so sudden and the crowd so much divided that no effective measures were taken to recapture the prisoner. News of what had occurred, however, was, by some means or other, conveyed to Sonora in advance of the sheriff's arrival; and it produced a profound impression there. The Sonora people were even more determined than those of Campo Seco. A crowd was immediately collected by means of a gong carried through the streets by E. Linoberg, a prominent merchant; and L. D. F. Edwards made a speech, referring to the numerous escapes of prisoners from their just deserts, and proposing that Hill should be taken from the sheriff as soon as he arrived and strung up in accordance with the sentence at Campo Seco. To which proposition the Sonora people agreed without a dissenting voice.

The crowd then armed itself; and, while one portion surrounded the jail, another portion took up a position on the road at the edge of town. The sheriff soon arrived. As his carriage drove up in the darkness, those who were there rushed for it. This caused the horses to veer out of the way and the vehicle to collide with a post on the roadside, when the sheriff and his prisoner, springing out, ran at a rapid pace for the jail. The crowd followed in hot haste, restraining from firing for fear of injuring friends, but shouting to those about the jail to stop the prisoner in front. The sheriff and his supporters meanwhile charged into the crowd that encircled the jail and fought their way step by step until the front door was reached. There on a slight elevation, six-shooter in hand, stood Frank Cheatham, another prominent merchant, who addressed the sheriff with the words, "Let the man go, George, or I'll shoot." As he so spoke, some of those from behind seized the sheriff and overpowered him, while others seized Hill and bore him off; and fifteen minutes afterwards he was hanging by the neck on an oak tree behind the El Dorado Hotel.¹

Crime had indeed become so rampant in Tuolumne county and so little confidence was felt in the administration of justice

¹ History of Tuolumne County, 77-79.

by the regular courts, that in June, 1851, it was deemed expedient to form a sort of permanent vigilance committee similar to that formed at Rough and Ready in Nevada county; and accordingly one was organized on much the same principles at Sonora. Things had tended in this direction for some months; and the success about this time of the famous San Francisco vigilance committee of 1851, which will be described further on, gave impetus to the movement; but the more immediate cause was an attempt by some of the criminal classes to burn the town and benefit by the confusion and distress that would be caused thereby. The vigilance movement was initiated, conducted and carried out by the most orderly and respectable of the citizens; and in the course of a fortnight, by prompt and decisive action, it accomplished a very great work and to a large extent cleared the moral atmosphere of all that region. It hunted down an American thief and banished him from the Southern Mines. It also banished a Frenchman, who had been detected in passing counterfeit coin. A Mexican, caught in the act of stealing, was flogged with twenty-five lashes on the bare back. Two Mexican counterfeiters were given the same punishment and a Mexican horse-thief, who was proved to be a consummate villain, got one hundred lashes, had his head partially shaved and was banished under penalty of death if he returned. Later on in the year, owing to a healthy fear on the part of the criminal classes and to a promise of greater efficiency on the part of the courts, there were fewer lynch-law punishments; but an escaped convict from Sydney, supposed to have stolen a mule, received seventy-five lashes, and a Mexican, who had stolen a pistol, fifty lashes; and both had their heads shaved and were banished.¹

¹ History of Tuolumne County, 80.

CHAPTER XIII.

LYNCH-LAW IN THE MINES (CONTINUED).

In speaking of a promise of greater efficiency on the part of the courts as a reason why the vigilance committee of Sonora did not go further and inflict more numerous punishments in 1851, it was not intended to imply that there was any express promise by any person to that effect. Nor was it intended to imply that the judges were derelict in their duty. But, while on the one hand there was little settled law and few legal precedents in the country, the judges on the other hand were unprepared to cope with the difficulties of their position on account of their want of that long course of study and experience which is ordinarily considered necessary to fit any persons for judges. Besides this, there were a number of very sharp lawyers among the adventurers who crowded into Sonora as well as into other populous centers of the mines; and the difficulties they were able to raise and the technicalities they were able to throw around almost any case, however apparently simple, were enough to perplex and not infrequently to mislead the very best judicial minds procurable in those days. The facility with which lawyers could thus make trouble, and the inability of some of the miners to understand that their presence was an effect rather than a cause of difficulties in conducting public and other business, occasioned in various of the mountain camps the adoption of resolutions designed to exclude and drive them out of the community as enemies of the human race. There can be no doubt that lawyers often succeeded in thwarting justice of its dues; but the notions of some of the old miners that there was "no need of laws until the lawyers came" and that "there were few or no crimes until the courts with their delays and technicalities

took the place of miners' trials" were simply the results of prejudice and ignorance.¹

The promise of greater efficiency in the courts in Tuolumne county rested principally upon the character of Charles M. Creaner, the district judge of the fifth judicial district, which consisted of the counties of San Joaquin, Calaveras, Tuolumne and Mariposa.² He was elected by the legislature immediately after the formation of the district in March, 1850, and held the first session of the court for Tuolumne county at Sonora in July of that year. Although far from being a cultured or scholarly man, he possessed a great deal of intelligence and, being disposed to act fairly according to his light, he improved rapidly and gave promise of becoming and did in fact become a very fair judge for the times. One thing was certain—and it was important in those days—and that was that he knew no fear and could not be intimidated. He was said to have come from Texas and consorted generally with men from the southern states, some of whom were disposed to be fiery and ready to fight on the slightest provocation; but they were all exceedingly careful not to provoke Judge Creaner, or "Old Creaner" as he was familiarly called.

An incident illustrates very fully the manner in which he was regarded. One of his intimate acquaintances was Benjamin F. Moore, a prominent attorney and politician, who had been in the constitutional convention where he announced his profession to be that of a "gentleman of elegant leisure." He was tall, over six feet in height, with an erect and straight figure though very spare and narrow chested, clearly-cut and strongly marked features, grayish hair that had once been black, and proud and haughty in his carriage, which was said to correspond with his extreme self-esteem and high reputation for fearlessness. His learning, even upon legal points, was of the flimsiest character; and in general information his illiteracy was profound. But his want of erudition, which would in these days, were he alive, subject him to ridicule before a court, proved a powerful aid before the juries of early times who felt themselves very deficient

¹ See also Shin's Mining Camps, 120.

² Stats. 1850, 93; Stats. 1851, 12.

in the same respect. He made a practice of railing against books and book-learning, praising the chivalry of the people of the south in comparison with the people of the north, and deriding northern men and the principles supposed to characterize them. He had committed to memory a few extracts from the speeches of such men as Clay, Calhoun and Randolph, which he was able to twist and turn to account on almost any occasion; and, with these as a stock in trade, he was always ready for a burst of furious eloquence and throughout the "flush times" of the Southern Mines was in his peculiar line without a peer or dangerous rival. And yet he knew well what he was about. Being reproached on one occasion by another prominent lawyer about an address he had just made to a jury and told that his remarks were ridiculous, he replied, "You think that I was addressing twelve learned judges; but I know I was talking to a dozen —— fools. I went in for winning my case, and I am going to do it!" And he did.

There was one man, however, that Moore knew he could not trifle with; and he knew better than to attempt it. This was Judge Creaner. On the occasion of a certain trial, while he was defending a man charged with robbery before the district court, Moore for the purpose of proving an alibi offered certain testimony, which Judge Creaner ruled out. In his address to the jury Moore referred to this testimony as evidence that the accused was a long way off on the night of the robbery; but his Honor, he went on to say, had seen fit to rule it out and it seemed to him that any old cow would have had more sense than to make such a ruling. It was a peculiarity of Judge Creaner, when his temper was ruffled to show the degree of his anger by raising the extremity of his nose; and attorneys practicing before him had learned by experience to forbear when this sign of danger appeared. At Moore's incautious remark the judge's nose immediately went up. "Mr. Moore!" he said, turning angrily towards counsel. The latter, however, considered it best to attempt to change the current of the judge's thoughts and proceeded as if he had not heard what he said. At this the judge repeated a little louder, "Mr. Moore!" Counsel still proceeded. At this the judge shouted very loudly, "Mr. Moore!" and at the same time

brought his fist down violently on the desk before him. As counsel stopped at this demonstration, the judge asked, "Did I understand you to say that an old cow would have more sense than this court?" Moore paused a moment, as if taking in the situation, and replied, "No, sir, I did not say it." "Ah," rejoined the judge, "then I was mistaken. Proceed Mr. Moore." After the adjournment a brother attorney, taking Moore aside, jokingly accused him of telling a falsehood. "Oh, *lied* you mean?" said Moore, "well, of course I lied. I had to lie or kill old Creaner; and I'd lie a thousand times before I'd do that! You'd play hell making apologies to that old nose!"¹

As a consequence of having such a man on the bench, it became a possible thing, in some cases of great guilt, to procure the conviction and punishment of a criminal. In January, 1852, for instance, a Mexican named José Corrales, who had been convicted of horse-stealing, was hanged by the sheriff at Sonora under a legal sentence. There was no doubt about his guilt, as he had confessed it; but on the other hand he was a foreigner, apparently had no strong or influential friends and consequently was obliged to swing. It was not until December, 1854, nearly three years afterwards, that the second legal execution took place at Sonora, when Robert Bruce was hanged for the murder of a Mexican Indian the previous year. Bruce had once broken jail; but, after a struggle in which he was severely wounded, he was recaptured. Another man, named Thomas Crooks, who had also been convicted of murder, was to suffer with him; but Crooks' sentence was commuted to imprisonment for ten years by Governor Bigler, who was the first to interfere largely with the administration of justice by a lavish exercise of the pardoning power.²

Considering the number and atrocity of crimes in Tuolumne county, even though Judge Creaner was on the bench and not disposed to be hoodwinked by astute and technical lawyers, the fact that only one legal execution had taken place in several years did not tend to encourage the community in relying upon the regular courts. And that they did not rely upon them was

¹ History of Tuolumne County, 180-185.

² History of Tuolumne County, 147-149.

shown upon several occasions in the course of the next few years. On Sunday, November 13, 1853, Peter Nicholas, an Austrian, a resident of Sawmill Flat, visited Columbia, became intoxicated, got into a quarrel of his own seeking with Captain John Parrot of Pine Log and, without provocation, plunged his bowie-knife into Parrot's neck, inflicting a wound which afterwards proved fatal. Nicholas was immediately arrested and handed over to the county authorities, who removed him to and confined him in the county jail. The next morning he was taken before a justice of the peace, examined and committed to await the result of Parrot's wound. But before he could be taken back to jail, a large crowd, including many miners from Pine Log, surrounded the justice's office and demanded the prisoner. The officers, as a means of protection, chained him to iron staples driven into the court-room floor. This, however, did not avail, as the crowd broke in, removed the officers, drew the staples from the floor by means of a pickax and, dragging the wretch out and passing him along over the heads of the crowd, some handling him by the hair, some by the arms, some by the legs, and all by any available grip that came handiest, bore him off to a convenient pine tree. A rope was procured and thrown over a limb; and there can be no doubt that the culprit would soon have been dangling between heaven and earth, if it had not been for James W. Coffroth and a few others who made urgent appeals for a trial. This the crowd, which had gradually increased to thousands, after some parley, agreed to; and they all moved over to Gold Hill as a convenient spot for the proceedings.

At Gold Hill a jury was impaneled, consisting of four men from Pine Log and eight from Columbia; and the trial was about to proceed when the sheriff of the county arrived and demanded the custody of the accused. Coffroth supported the sheriff in his demand; but the crowd refused to accede to it and resolved to retain the man, try him and, if found guilty, hang him without delay. Thomas N. Cazneau was appointed to prosecute and Coffroth, with the assistance of another attorney named Gillespie, to defend. Meanwhile Deputy-sheriff Randall arranged a force to act with him on a preconcerted signal in

seizing the prisoner and hurrying him away on a horse which was stationed conveniently near by. Coffroth, having been instructed in the plan, lengthened his speech sufficiently for everything to be matured. At the close of it, the jury retired and in a quarter of an hour returned a verdict that the accused was guilty of an assault with intent to kill; but, as Parrot was not yet dead, that the prisoner should be given up to the authorities to await results. At this the wildest excitement ensued, some shouting, "Hang him! String him up!" and others, "Give him to the sheriff." As soon as order was partially restored, it was resolved to put the question to a vote whether the verdict should be ratified; but, the result being apparently very doubtful, Randall and his force charged upon the crowd, seized the prisoner, hustled him off, mounted him, manacled as he was, upon the ready horse, and then, mounting their own animals, were soon on their rapid way towards Sonora. The crowd, being surprised and taken entirely unaware, hesitated awhile and then pursued a short distance; but, on finding pursuit useless, gave it up and returned with mutterings of disappointment and dissatisfaction to their camps. Subsequently Nicholas was tried before the district court at Sonora, convicted of murder in the first degree, his victim having in the meanwhile died of his wound, and sentenced by Judge Creaner to death. But here again justice was thwarted by the governor, who commuted the sentence to imprisonment for seven years.¹

The next notable occasion was in 1855. About nine o'clock on the evening of January 18 of that year, Joseph Heslep, deputy-treasurer of Tuolumne county, was found murdered in his office in Sonora. His dead body was discovered lying upon the floor, still warm, by a person who had gone there on business. An alarm was at once given; an immense crowd collected; there was great excitement; and, as was usual in cases of such gravity, a public meeting was called to take into consideration what was best to be done. One of the first things was to light a large bonfire in the street as a sort of rallying point and to distribute guards and prevent suspicious characters from leaving the town. Meanwhile a coroner's jury was sum-

¹History of Tuolumne County, 150-152.

moned to make an examination of the deceased and elicit such facts as could be ascertained. They found that the head and face of the deceased were horribly mangled as if with blows of some blunt instrument and that the mouth, throat and nostrils were stuffed with paper. But there seemed to be no clue to the murderer. Some slight suspicion was entertained of the person, who found the dead man, but it was soon given up. And it is likely that the murderer would never have been discovered if it had not been for the astuteness of Constable Samuel Phillips. While a man named Edward Crane Griffiths, who had been last seen in Heslep's office, was testifying before the coroner's jury as to his knowledge of the deceased's actions that evening, Phillips conceived the idea of visiting Griffiths' room in the United States Hotel; and, while Griffiths was still on the witness stand on his second or third examination, Phillips reappeared and called attention to a valise which he had found there. As soon as Griffiths caught sight of the valise, he exclaimed, "Ask me no more questions. I am the guilty man!" This of course put an end to any further examination; and in the midst of the excitement consequent upon the declaration, Phillips related how he had visited Griffiths' room and found concealed under his bed the valise filled with blood-stained clothing, the blood still fresh, and a heavy overcoat in the pockets of which were six thousand dollars in gold.

At this stage of the proceedings alarm bells were rung and those who had retired from the scene reappeared. The whole town was aroused. The startling facts were soon told and a resolution was adopted that the murderer should die at day-break. There was not a dissenting voice. The doomed man remained by the bonfire in the street the remainder of the night, surrounded by the crowd, which was making preparations to hang him. The sheriff of the county made a pretense of getting possession of him but without avail. The people were determined not to be thwarted again; and nothing could have saved the condemned from his sentence. He himself fully realized his position and occupied the short time remaining to him of life in writing letters and making confession of his crime to his custodians. It appeared from his statement that he was born in

Liverpool, England, in 1824 and had been at sea since his eleventh year until reaching California. Upon his arrival at San Francisco, he was without money or friends but managed to find his way to San José, where he was assisted by a brother of the deceased with a letter of recommendation and money to get to the mines. He had come to Sonora and presented his letter to the deceased, who had established him in business. On the evening of the murder he had called at Heslep's office, just as the latter was about putting a bag of money into his safe, and asked for the loan of a portion of it. Heslep refused, when, in a spirit which he claimed to be more of joke than anything else, he placed his hand upon the bag. At this Heslep struck him and he, in turn becoming angry, seized an ax, which stood near by, and with a blow upon the temple struck him to the floor. He followed up the first blow with several others; but, as the prostrate man still continued to make a noise, he stuffed paper into his mouth and nostrils. He then opened the safe; took out six thousand dollars in gold; closed it up again; blew out the lights, and left the house. The whole affair did not take more than five minutes. He then went to his room in the hotel, changed his clothes; concealed the bloody ones and the money he had stolen, and then walked out. After taking a few turns in the street, he had returned to the neighborhood of Heslep's office, by which time the murder had been discovered. It was between one and two o'clock in the morning of Friday, January 19, 1855, that this confession was made. At day-light the miserable man was carried to an oak tree; strung up by the neck to a limb of it, and left there to die.¹

Only a few months after this exhibition of popular vengeance by way of rebuke to the regular administration of justice, another case occurred in Tuolumne county, which strongly stirred the public mind. On the night of June 30, 1855, four burglars entered the sleeping apartment of Thomas C. Brunton at Yorktown, where it was known that twelve thousand dollars were deposited in a safe. Though most of his family slept in the room, none were awakened except Brunton, who upon looking up saw a man standing over him with an ax in his hands and

¹ History of Tuolumne County, 153-160.

was told by him to lie perfectly still as it was only money that was wanted. He accordingly remained quiet until the burglars left the room with the money, when, seizing a pistol, he followed them; but was knocked senseless by the hindmost and received a severe knife wound in his neck. For certain reasons, though there was no clue leading to the discovery of the burglars, it seemed probable that they were persons living in the community and passing as respectable members of it. This became a very common belief and a subject of much and sometimes heated discussion. Among others and while the excitement was very violent, a gunsmith of Algerine Camp, named Kittering, took part in the discussion and expressed an opinion that W. H. Worth, the justice of the peace of that place, was a party to the burglary. Upon hearing of the accusation Worth proceeded to Kittering's house, professedly to demand an explanation; but in a few minutes after they got together in an apartment by themselves, hasty words, a shot or two and a cry of murder by Kittering were heard and Worth came out, leaving Kittering dead upon the floor.

Whether there was any good ground for Kittering's accusation of Worth is not known; but that persons of prominence in the community were interested in suppressing the facts in reference to the Brunton burglary, which would seem to constitute some evidence of complicity in the crime, became more and more evident from a series of outrages to which Brunton was subjected for the next five years, all seemingly designed to so annoy as to drive him out of the country, and which finally culminated in his murder in 1860. It is also likely that the secret influence of the same persons, who for fear of discovery hounded Brunton to death, had much to do with the prevention of a popular outburst and the application of lynch-law in the case of Worth for the killing of Kittering. All the circumstances of that homicide had a very bad look; but there was no uprising; and afterwards in 1856 when Worth came to be tried in the district court before Judge Creaner, he was defended by four or five of the best criminal lawyers in the state and acquitted. It was said that after escaping from the gallows he went east and became a minister of the gospel in Virginia.¹

¹ History of Tuolumne County, 178, 179, 187.

A singular Tuolumne county case, commencing in June, 1851, and ending in August, 1855, was popularly known as the "riot in the Tigre" and its "sequel." The Tigre was a disreputable house in the Spanish quarter of Sonora, where all kinds of vice were carried on. A row having occurred there, J. F. McFarlane, the town marshal, proceeded to the spot and arrested a man named Contreras; but, on an attempt being made to rescue him, a fight occurred; and in the course of it a Chileno was shot and mortally wounded by one of the marshal's party. A scene of the wildest violence and confusion followed, giving rise to reports that Sonora was the most lawless place in California; that the town had to be surrounded by a cordon of armed men; that a hundred extra policemen had to be sworn in to repress attempted risings of the foreign population, and that the marshal was shot at repeatedly, the bullets taking all the buttons off of his coat. Such was the riot; and it created a noise all over the country. Quiet was, however, at length restored; and it was supposed the affair would be forgotten. But not so. The friends of the deceased Chileno appear to have believed that Officer John Sheldon had fired the fatal shot, and for about four years they dogged him with sleepless and unforgiving vengeance. Sheldon, who was a night watchman at Sonora, was aware that they had determined to kill him; but he undauntedly continued his duties, only taking care to be continually prepared for an attack. At length, however, he grew careless; and on a certain excessively dark night in May, 1855, as he was patrolling as usual, being muffled in a cloak, three men sprang upon him, stabbed him fatally, and, after making sure of their work, ran off and escaped—leaving no trace except a hat, which one of them dropped in his haste to get away. Sheldon mortally wounded staggered to the United States Hotel, where in a few minutes afterwards he expired. Two of the murderers were a few months subsequently taken at Tuttletown; and their guilt was proved principally by means of the dropped hat. Being tried, convicted and sentenced to death, their hanging on August 3, 1855, which constituted what was known as the "sequel," took place in the presence of a crowd of three thousand spectators.¹

¹ History of Tuolumne County, 81, 187-189.

But the case that was the most widely talked about and perhaps the most remarkable of all in the Southern Mines, took place in Columbia on Wednesday, October 10, 1855. A man named John S. Barclay, who was from New York and had been living since 1850 at Chinese Flat, becoming infatuated with a woman called Martha, the proprietress of a disreputable house known as "Martha's Saloon," married her and took up his quarters in her house. On the afternoon of the day in question another New Yorker, named John H. Smith, then of Knickerbocker Flat, who was a quiet and respectable man when sober, visited Martha's Saloon and, becoming intoxicated, got into a quarrel with the proprietress about a pitcher he had broken. She being violent and abusive, at least in language, he seized and forced her into a chair. As he did so, Barclay came running out of an adjoining room and, drawing his revolver, shot Smith dead. Barclay was immediately arrested and placed in confinement. But as Smith was well known and had many friends, a crowd gathered about the jail, which soon swelled into a large and excited mob. James W. Coffroth, who had just been elected to the state senate, addressed it and said that, though as a general rule the laws ought to be sustained, the occurrence which had called them together was of a character to demand the speediest action and warrant the people in taking the administration of justice into their own hands. He said further that he was a near and dear friend of the deceased and as such considered it his duty to call for vengeance upon his murderer. It was true he had been elected to make law; but upon such an occasion he believed the laws should be laid aside; and he hoped the people would not only move but move promptly and effectively.

Upon the conclusion of Coffroth's remarks, a judge, marshal and jury of twelve persons were appointed by acclamation; and then a rush was made by the crowd upon the jail and the officer, who attempted to defend it, was overpowered and taken away. The iron doors being found closed, a keg of powder was placed in position to blow them open; but on further examination it was found that they were not strong and they soon yielded to a few well-directed blows of sledge-hammers and axes assisted by crowbars. As they fell, Barclay sprang out and attempted to

make his escape by running; but he was instantly borne down by numbers and carried off by the excited people amid cries, oaths and imprecations. They carried him to the high flume of the Tuolumne County Water Company at its crossing over the road to Gold Springs, where a ring was formed and the form of a trial gone through with. Coffroth was appointed prosecutor, and John Oxley, who had been elected to the lower house of the legislature, counsel for the prisoner. The jury was sworn and witnesses were examined; but it soon became evident that the mob was a very different one from an ordinary Californian crowd. They were unwilling to give the accused a fair show. No one, who it was supposed would testify in his favor, was allowed to reach the witness stand; and even his counsel was interrupted and his voice drowned by clamor. Coffroth, on the contrary, then a sort of political idol, was permitted full swing and had everything his own way. Seeing the temper of the crowd, when he came to address the jury, he had little to say. "The only question," he said in substance, "is, who was the murdered man? and who is the murderer? If you are satisfied that the prisoner shot Smith, then it is your duty to declare the fact; and it is your duty to declare the penalty. There is a higher court to ask for mercy. This man should fulfill the Divine law—an eye for an eye; a tooth for a tooth; a life for a life. Whosoever sheddeth man's blood, by man shall his blood be shed." At this point there was loud applause, when Coffroth continued, "Gentlemen will please avoid any applause for the poor remarks I may offer. Consider the feelings of the prisoner. Who can estimate his anguish, when he looks back and now looks to the ignominious death that awaits him?"

The prisoner, who had been sitting on the ground with his hands over his face, upon hearing the applause, looked up and asked Coffroth to request of the jury a little time in which he might arrange his private affairs. Mr. Oxley then attempted to speak and said something about the laws; but the crowd cried tumultuously, "Enough! enough! Damn the laws! Up with him!" Oxley shouted to the howling multitude "that time should be taken for reflection. It would be too late to do justice after they had taken the man's life. The prisoner might not be

entirely innocent, but there were many extenuating circumstances; and they had not heard them. Let time be allowed; at any rate wait for day-light and have a fair trial." But during the whole period that Oxley was speaking, the crowd was interrupting him with savage yells. It is possible that Coffroth might have quieted them; but he made no attempt to do so. The judge ordered and commanded that Oxley should be heard; but the crowd cried "No, no! Enough! enough! Drag him up! He gave Smith no time. All hell shall not save him!" Oxley shouted that he would not be silent as long as he could speak; that he intended to do his duty as became a man, and that he would not stop until the jury compelled him to do so. But here his voice was absolutely drowned in the tumult of noises. His courage in standing up against and opposing the savage mob was in every way manly and deserving of the highest respect; but it was useless. He was forced down and compelled to retire amidst howls and curses.

The case was then about to be given to the jury when J. M. Stewart, the sheriff of the county, who had just arrived and made his way in the darkness into the center of the ring, laid his hand upon the prisoner and demanded his custody in the name of the law. At this a by-stander immediately seized the sheriff by the throat, while others seized him by the body and violently threw him back. At the same time shouts of "The sheriff! the sheriff!" arose on every side; and the ringleaders of the crowd, rushing forward, seized Barclay and bore him off in another direction. The sheriff demanded to be released and to be supported in the discharge of his duty. Getting free a few minutes afterwards, he rushed towards the prisoner, who was then under the flume with a rope around his neck. Drawing a knife he attempted to cut the rope; but, as he did so, one of the crowd struck him a heavy blow on the head with the butt of a pistol, while others hustled him off, at the same time taking away his arms, bruising his face and tearing his clothes. While he was thus being beaten off, the prisoner, haltered with the rope around his neck, was being drawn up by his executioners who stood upon the flume overhead. As he rose a demoniac yell burst from the mob. No precautions having been taken to pinion him, the victim, as he rose, throwing up his arms, seized the

rope above his head and held on with a desperate grip. To break his hold, those above drew him up and let him down suddenly several times; but still his powerful grip held good. One of the executioners, leaning over the flume, called down to him, "Let go, you —— fool, let go!" Finally his strength gave out; his hands relaxed, and he fell. As the rope tightened, he drew up his legs, gave a few convulsive movements, and then hung straight. All was over.¹

The spectacle was a horrible one—the man hanging in mid air, strangling and choking to death and the crowd, hooting and yelling and in the madness of excitement swaying backwards and forwards, while the lights of torches and bonfires cast a lurid glare over all the terrible scene. It can not be said that Barclay did not deserve punishment; but the disgraceful manner in which the Columbian crowd acted created a profound disgust against lynch-law in the minds of many persons, who had before regarded it as a sort of necessity. In almost all the cases that had previously occurred, there had been something like fairness preserved and no attempt made to prevent accused persons from being fully heard; but on this occasion there was no chance whatever given the accused; and even on the supposition that there could be no possible exculpation, the action of the crowd was brutal and cruel. The general realization that this had been the case, the ill repute that Columbia acquired on account of it and the respect and even admiration with which the courage and heroic conduct of John Oxley and Sheriff Stewart were regarded all over the county, together with the improvement, which had steadily gone forward in the administration of justice by the regular courts—all combined to create a reaction against lynch-law; and, though other cases occasionally occurred, they were exceptional and could hardly be considered as expressions of large popular feelings or portions of large popular movements.

Meanwhile in almost all other parts of the state, during the same years referred to, there were many, in fact very many, cases of lynch-law, more or less similar to those thus particularized. In the Northern Mines, at Rich Bar on the North Fork of

¹ History of Tuolumne County, 190-197.

Feather river, a Swede, called "Little John," a waiter in the Empire House, in October, 1851, stole four hundred dollars from his employer and, having been tried and convicted, was flogged with thirty-nine lashes and driven out of the region.¹ This was not an uncommon punishment for theft; but in some cases it was resorted to for the purpose of preventing a sentence to death. Several cases occurred in which, there being a wide difference of opinion among two factions of a crowd as to what punishment should be inflicted, the more violent demanding death and the more tender-hearted acquittal, a compromise was effected by adopting flogging. Now and then there was an extreme instance in which the more violent and reckless had their own way. One of these took place at Rich Bar in December, 1851. Some months previously two men had been arrested at that place on suspicion of having stolen eighteen hundred dollars in gold-dust from their partners. They were tried before a meeting of the miners; but, none of the stolen property being found or traced to them and there being no sufficient evidence to connect them with the crime, they were acquitted. After their release, claiming to be injured by unjust suspicions, they went off to Marysville. In December one of the men, named William Brown, returned and idled around for some time, pretending to be prospecting for new mines. After a few days he was noticed to go off alone and it was ascertained that the earth in a certain abandoned coyote-hole had been disturbed. He was watched and found to have a money belt, that had evidently been buried and recently cut open, and a large amount of gold-dust. Upon this discovery he was again seized and charged with the theft. At first he maintained his innocence; but finally, on a promise that he should not be brought to trial, he confessed that he and his companion had stolen the money; that his companion had gone off to the eastern states with one-half of it, and that all he had left was six hundred dollars, which he gave up. As soon as the facts became known, the people of Rich Bar took the matter in hand and, notwithstanding the promise made, sentenced Brown to death by hanging within an hour. This short time was afterwards extended to three hours, at the end of

¹ Pioneer Magazine, II, 214, 219.

which the sentence was executed. But only the most reckless approved of this violent action.¹

In the same year 1851, a man named McDonald, the proprietor of the Slate Creek House near Pine Grove in what is now Sierra county, while one night playing cards with his cook and three other men of the neighborhood, was struck over the head and stunned with an iron bar by one of them and finished by the others. They then buried his body in a shallow hole not far distant; ransacked the house; stole all the money they could find, only about four hundred dollars in all, and separated. While the three outside participants went back to Cañon Creek, whence they had come, the cook kept the house as usual, representing that McDonald had gone to San Francisco on a visit. But there were several matters that aroused suspicion against him. One was that he had hired a man for three dollars to fell a tree in a particular direction, the object of which could not be understood. The man employed, taking the ax belonging to the house, found it very dull and soon desisted from his work, saying that he would not work any longer with such an ax. As he said so, examining it carefully, he saw stains upon it and remarked that it was strange for a chopping ax to be bloody. Upon his making this observation, the cook seemed excited and stammered out something about cutting fresh meat with it. About the same time McDonald's continued absence and silence led to inquiry as to his whereabouts and induced some of his friends to send a notice of his disappearance and an advertisement for him to the San Francisco newspapers. Not long before, the cook had sent a quantity of money to a business person in San Francisco with instructions to apply it in a certain way; but this person, seeing the advertisement and apparently suspecting the truth, instead of applying the money, proceeded to Pine Grove and made a statement. This roused the miners, who at once congregated and arrested the cook. They next went to Cañon Creek and arrested two of the other three men. The fourth man, resisting and refusing to be taken alive, was shot down. A miners' court was then held before which two of the accused confessed their guilt and pointed out

¹Pioneer Magazine, II, 351-353.

McDonald's grave, which proved to be in a position that would have been entirely covered up if the tree had been felled in accordance with the directions of the cook. The finding of the corpse confirming the confession and there being left no doubt of the guilt of all, they were convicted and sentenced and within half an hour were strung up in a ravine within a hundred yards of the scene of the murder.¹

The lynch-law execution, however, that made the deepest impression and was the most widely talked about in the Northern Mines, took place in July, 1851, at Downieville, which from the occurrence became known, by way of bad pre-eminence, as the place where they hanged a woman. It was one of the sequels of a great Fourth of July celebration. John B. Weller, afterwards governor of the state, had been announced to deliver an address, and a very large crowd congregated to hear him—the miners and settlers coming in from all the camps in the neighborhood. After the regular exercises of the day, there was much drinking and carousing; and in the evening, when it began to grow dark, a number of the revelers started out staggering through the streets, hooting and howling, beating on houses and breaking open doors here and there as they went. Among other places attacked was a house occupied by a Mexican woman called Juanita and a countryman of her's, who kept a monte table. One of the revelers, and perhaps the most hilarious of them, was a Scotchman of large size and great physical strength, known as Jack Cannon. He seems to have been acquainted with the woman or at any rate went to make her a visit the next morning. Some said his object was to apologize and pay for any damage he had done; but this does not appear to be likely. Whatever his object may have been, he was seen to go up to the door, where the woman and her Mexican friend were standing, and was heard to address her with a vulgar expression. She immediately turned back into the house and entered a side-room, leaving Cannon leaning

¹ Early Annals of Downieville and Vicinity, No. 4. Tuolumne Courier, —1860. A somewhat different account of the "Slate Creek Tragedy" was given in the Illustrated History of Plumas, Lassen and Sierra Counties, San Francisco, 1882, 209.

with a hand on each side of the doorway, conversing with the man. In a moment afterwards, however, she came back, holding one hand behind her, and rushing forward she plunged a long knife with all her strength into Cannon's breast and killed him.

The news of the homicide spread like wild-fire. It took but a little time for an immense crowd to collect. They were not fully over the effects of their dissipation of the day before; but their excitement took a new direction; and it was now for vengeance on the murderer of Jack Cannon who had been a jolly good fellow and popular with everybody. On the first indication of this feeling, the woman had left her own house and entered the saloon of one Craycroft for protection. But the crowd soon surrounded Craycroft's and, seizing the woman, carried her to the main plaza of the town, where the stand erected for the exercises of the day previous still remained. Her Mexican friend continued with her, while the body of Cannon was exposed in a tent near by. Upon arriving at the plaza, the first things done by the crowd were to select a judge and jury and appoint counsel for the people and the defendant respectively. There was little for the prosecution to do; but the attorney for the defense received very bad treatment. Seeing that he could say nothing of importance in reference to the killing, he confined himself to the enormity of hanging a woman and put that enormity in so strong a light that the mob became maddened and kicked the barrel on which he stood from under him—his hat going one way and his spectacles another, while he himself was carried at least a hundred yards, hustled from side to side, before he touched the ground. Next a doctor, named C. D. Aiken, attempted to save the woman by claiming that she was about to become a mother; but as is usual on such occasions other doctors were found to express a directly contrary opinion; and the result was that Dr. Aiken was ordered to leave Downieville and found it safest to do so. The infuriated crowd would evidently suffer nothing to be said or done in favor of their victim and would brook no opposition to their predetermination to be avenged. The end was not long in coming. The jury in a very short time returned a verdict of guilty; and the judge, without waiting to

be prompted by the crowd, sentenced the woman to be hanged. She was given only an hour to prepare for death, while arrangements were made on what was known as the Jersey bridge for her execution. A rope was fastened on one of the projecting upper timbers, while beneath it a plank, six inches wide, was pushed out over the stream and lashed to the floor timbers of the bridge. At the end of the hour the woman was brought to the place and stationed on the plank. There were several thousand spectators present. The woman of course knew what was coming; but she appears to have been perfectly cool and collected. She surveyed the crowd and spoke pleasantly to several of her acquaintances. She took off her hat and handed it to one of them, bidding him good-by in Spanish. She then took in her own hands the rope that was being thrown over her neck and adjusted it beneath her black hair. A white handkerchief was fastened over her face; her hands were tied behind her; and at each side of the plank behind her a man, ax in hand, stood ready to cut the lashings. At the report of a pistol, which had been agreed upon as a signal, down came the axes; the plank dropped; and Juanita fell three or four feet and remained suspended. Consciousness was apparently extinguished instantaneously upon the fall; and death was rapid.¹

¹Illustrated History of Plumas, Lassen and Sierra Counties, 445-447.

CHAPTER XIV.

SAN FRANCISCO VIGILANCE COMMITTEE OF 1851.

BUT of all popular appeals to that higher law, which regards the good of the community as of more importance than the letter of the penal code and justifies infractions of legislative enactments when required for the preservation and safety of the members of the municipal body—just as in the wider political life of nations and states, occasions now and then arise that justify revolt against established authority and lift them in the estimation of mankind from the lower levels of rebellion to the sublime heights of revolution:—of all such movements there was in the very early days no other so remarkable as the famous committee of vigilance of San Francisco. This extraordinary institution—for it became a powerful factor in the development of the country and well deserves to be called one of the institutions of the early days—took its rise in the month of June, 1851. It was occasioned by the unsafe and unsettled condition of affairs in San Francisco—produced by the vast aggregation there of thieves and ruffians from all parts of the world and particularly from the British penal colonies of New South Wales and Van Dieman's Land and the outrages, ever increasing in frequency and atrocity, committed by them. There was hardly a crime from pocket-picking to murder that was not common; and in the presence of so many and such bold desperadoes no one was secure of his property or even of his life. Thefts, robberies, burglaries, arsons and assassinations were of almost daily occurrence and of late months fearfully on the increase; while the courts, being conducted by judges and officers, who if not corrupt were at least inefficient, afforded no relief.

By the spring of 1851 affairs had become so bad as to be intolerable. The blackguards were in the ascendant. There was

complete immunity from liability for crime. Since the cleansing of the city in the summer of 1849 by the expulsion of the so-called "Hounds," no punishments had been inflicted and none seemed likely to be inflicted. Meanwhile, as the harvest for depredations grew wider and richer with every vessel that came in from the ocean and every express that arrived from the mines, it began to be found that a sort of combination was growing up among the scoundrels, having its ramifications extending upwards to some of the high officials and downwards to the pettiest pilferers and vagrants in the country. Each had his own selfish ends to gain, some being politicians and asking chiefly for votes with the ulterior view to profitable office, others being satisfied with the countenance and influence of their leaders, and others in securing subordinate places of profit; but the great majority having in view only the spoils of low-lived plunder and the pleasures, such as they were, which such spoils could buy for them. It was well known that the whole purpose of these banded miscreants was to rob and steal, while their whole thought was how to make opportunities for carrying on their villainies; and it began to be believed—and apparently with good reason—that in the prosecution of their diabolical objects and to enlarge their fields of operation they from time to time set incendiary fires and were thus in fact the authors of some of the great conflagrations that had on several occasions laid the city in ashes.

There was a particular quarter of San Francisco noted as the rendezvous of these scamps. It lay around Clark's Point or about the lower ends of Pacific and Broadway streets. It was known as the Sydney-town of San Francisco, was full of low drinking and dance houses and was infamous for its constant scenes of lewdness, drunkenness and strife. It was dangerous even for the police to enter these lawless precincts and especially to attempt to make arrests unless supported by a very large force. When the great fires took place, bands of plunderers issued from these haunts of dissipation to seize money or whatever valuables they could secure and carry away. With their plunder they would retreat to their dens and defy detection or apprehension. Individuals belonging to their number were on

various occasions seen in the act of kindling inflammable materials in outhouses and secret places, while the subsequent confessions of numerous criminals left no doubt of the frequent attempts to fire the city, some of which had unfortunately been too successful. At the same time whenever objection was made or resistance offered to these outrages, the bowie-knife or revolver quieted opposition and left the robbers practically unmolested. If arrests were made, the prisons were insecure and there was little or no difficulty in effecting escapes. In most cases the trouble of escaping, however, was avoided by furnishing bail; and, as the bail was worthless, it was easy to procure any amount of it. In the very rare cases, in which criminals were ultimately brought to trial, convictions were next to impossible. Between venal judges, corrupt officers, dishonest jurors, legal technicalities, perjuries, removals of witnesses and suppressions of evidence, acquittals were practically sure. There was no fear whatever of the law, because there was no danger that any one that had a particle of money or influence could be found guilty or punished: on the contrary offenders came to regard a criminal prosecution as a farce, dull and dreary perhaps but perfectly harmless, and looked upon courts as a protection against the possible infliction of private vengeance.¹

The necessity of doing something to stop the career of crime grew more and more apparent and became a matter of public discussion. Various plans were proposed; some advocating the appointment of a committee of regulators to look after the public safety, and others the appointment of a volunteer police to see to the prosecution and punishment of offenders. But, as in most cases of the kind, the popular indignation had to be worked up by several stages before it acquired the force and impetus that manifested itself by action and rendered it irresistible. One of these stages was reached in February, 1851. On the nineteenth day of that month, at about eight o'clock in the evening, a man entered the store of Charles J. Janson & Co. on Montgomery street near Washington and asked to see blankets. Mr. Janson, who was alone in the store at the time, proceeded to show his blankets, when another man came in and asked for canvas.

¹ *Annals of San Francisco*, 562-568.

While he was exhibiting his wares to one of the men, the other silently approached from behind and, with a violent blow from a slung-shot, felled the proprietor to the floor. He was thereby rendered insensible and probably was supposed to have been killed; at any rate the ruffians very hastily robbed the premises of all the money they could lay their hands on, consisting of two thousand dollars, and immediately fled. The circumstances of the outrage, the public location of the business house, the early hour of the evening, the murderous violence of the attack, and the bold and successful plan of operations indicated that the robbers were of the most daring and desperate character; and, as soon as the main facts became known, there was great excitement among all those classes of the people who had the interests of the community at heart.

The next morning a man was arrested as James Stuart, charged with having murdered Sheriff Moore of Auburn. Stuart had been apprehended and confined in the jail at Sacramento to await his trial for that murder, but had managed to escape some two months previously. Several circumstances meanwhile raised a suspicion that the same man Stuart, who had murdered Sheriff Moore, had robbed Mr. Janson; and it was accordingly supposed that in the recent arrest a double criminal had been secured. But the arrested man stoutly maintained that there had been a mistake in his seizure; that he had had nothing to do either with the robbing of Janson or the murder of Moore, and that his name was not James Stuart but Thomas Burdue. No attention, however, was paid to his denial; several persons, who had known Stuart, pronounced him to be Stuart; and there seemed to be no reasonable doubt upon the subject. It was difficult to be mistaken for the reason that he was a peculiar-looking man—tall, inclined to stoop, beard remarkably black, long and pointed, his hair a rich brown, fine and wavy and reaching below his collar. He had lost a joint from one of his fingers, had a little slit on one of his ears and a scar over his left eyebrow. His eyes were black, glittering and restless; his nose aquiline; he had a defiant way of raising his head and looking about him; and his gait was a long measured step or stride, like that of a person pacing off ground.

With these marks it was not likely that the witnesses could be deceived. On February 21, as soon as Janson had sufficiently recovered consciousness, the accused, together with a second man, named Joseph Windred, who had been arrested on suspicion of the same offense, were taken before the wounded man for identification. Janson at once recognized the two men as those who had committed the assault and robbery. He had some faint doubt as to the second one, but not a particle as to the one called Stuart. As to him he could not possibly be mistaken, as he had seen him plainly before he was stricken down.¹

On Saturday, February 22, 1851, the examination of the prisoners took place at the city hall, which was then on the corner of Kearny and Pacific streets. By that time the excitement had increased to such a pitch that a crowd of at least five thousand people collected in the adjoining streets. It was not a mob; there was no disorder; but the popular feeling was very strong that something should be done. A few persons counseled violence; some had handbills hastily printed and distributed among the multitude, calling attention to the long series of murders and robberies that had been committed and the apparent anarchy in the management of the city. Law as administered was but a nonentity to be only scoffed at; and there seemed to be no redress except by an appeal to lynch-law—a resource which as an ordinary mode of relief, though not to be admired, at least offered an unfailing remedy and under the circumstances seemed to be inevitably necessary. "Are we to be robbed and assassinated in our domiciles," continued the handbills, "and the law to let our aggressors perambulate the streets merely because they have furnished straw-bail? If so, let each man be his own executioner. Fie upon your laws: they have no force!" They finally called upon all who would rid the city of its robbers and murderers to assemble on the plaza at two o'clock on Sunday afternoon. At one time in the course of the day's excitement a shout of "Now is the time" was raised in the crowd; and a few hot-headed individuals rushed

¹ Annals of San Francisco, 314, 315; Barry & Patten's Men and Memories, 114.

into the court-room with the apparent object of seizing the prisoners out of the hands of the authorities. But Mayor John W. Geary, anticipating the possibility of such an attempt, had secretly stationed a military company, known as the Washington guards, in an adjoining apartment; and it immediately on the first sign of an outbreak cleared the court-room and hurried the accused back into the prison and out of danger. Meanwhile the soberer and cooler citizens had, as was usual with a Californian crowd, organized a public meeting, at which speeches were made; and towards night-fall as the result of its action a committee of fourteen prominent persons, including William D. M. Howard, Samuel Brannan, Henry F. Teschemacher, Joseph L. Folsom, Frederick W. Macondray and Theodore Payne, was appointed to consult with the authorities and prevent the escape of the prisoners.¹

In general the committee was moderate and conservative; but Samuel Brannan, who was perhaps the most energetic man amongst them, was very radical. In answer to a proposition to try the accused in the ordinary way he said that he was surprised to hear people talk about grand juries, recorders and mayors. He was tired of such talk. The prisoners were murderers as well as thieves; and he knew it; and he would die or see them hung by the neck. He was opposed to any farce in the business. There had been enough of that eighteen months before, when the people in the affair of the Hounds allowed themselves to be made the tools of the judges. It was time that the people asserted their authority. They were the mayor and recorder, the hangman and the laws. The courts had never hung a single man in California; and yet every morning there were fresh accounts of murders and robberies. He wanted no technicalities: such things were devised to shield the guilty. The committee, however, not being as yet willing to agree with Brannan, adopted a resolution, prepared by Howard, to adjourn to the following afternoon on the plaza and report their proceedings to the people who had appointed them. The next morning a crowd of about eight thousand people collected and was addressed by Mayor Geary. He suggested that the

¹ Annals of San Francisco, 314-316.

prisoners should be tried before a court consisting of the regular judge and a jury of twelve citizens to be appointed by the meeting and that the verdict should be final. But the meeting, after some discussion, resolved that the trial should be conducted by and among themselves and that if the regular courts or officers chose to assist in the business they were welcome to do so; but, if not, a prosecutor should be appointed, counsel assigned for the prisoners, and the trial proceed as soon as possible. This being agreed on, the public authorities declined to have anything to do with the matter and, being powerless before so numerous a body of the people, withdrew.

On Sunday afternoon, in accordance with the resolve of the meeting of the morning, a large number of citizens assembled and proceeded at once to empanel a jury of twelve persons. J. R. Spence was appointed presiding judge, H. R. Bowie and Charles L. Ross associate judges, John E. Townes sheriff, W. A. Jones clerk, William T. Coleman prosecuting attorney, and D. O. Shattuck and Hall McAllister counsel for the prisoner. The trial proceeded forthwith. Testimony was adduced; arguments presented; a charge given by the presiding judge, and the jury retired. They were, however, unable to agree and, after remaining out until nearly midnight and satisfying themselves that it would be useless to stay any longer, they came into court and reported, through their foreman, that they stood nine for conviction while three had doubts, and asked to be discharged. This result caused much dissatisfaction among the crowds in the street; loud cries burst out on all sides of "Hang them anyhow; the majority rules!" and great excitement prevailed. But after a time order was restored and the jury discharged. It was then midnight; and there was still much excitement; but, the cooler heads insisting upon moderation and decorum, a motion was finally put and carried to indefinitely adjourn; and before one o'clock on Monday morning the crowd quietly dispersed. There can be no doubt that if the prisoners, innocent as they afterwards proved to be, had been found guilty by the jury they would have been executed by the people. As it turned out, however, they were handed over to the regularly constituted authorities, by whom not long afterwards they were tried for the same offense;

and, being convicted, they were sentenced to imprisonment for fourteen years—the highest punishment that could be inflicted under the statute for the imputed crime. Being remanded to prison Windred, after a short imprisonment, succeeded in cutting a hole through the floor of the room where he was confined and escaped, while his companion in misfortune was sent to Marysville to stand trial for the murder of Sheriff Moore. There he was still more unlucky than he had been at San Francisco; for, being again identified as James Stuart, he was convicted of the crime of murder and sentenced to be hanged.¹

Meanwhile criminal affairs in San Francisco grew worse and worse. The recent outbreak in reference to the Janson robbery ought to have been a warning to the criminal population and convinced them that there was a limit beyond which they would not be allowed to go; but, instead of being such, it had a contrary effect and, by its failure, only made them bolder and more defiant. Not only had not a single offender, of the hundreds that had committed capital offenses, been executed; but it seemed as if there was no likelihood of any one being brought to justice. The citizens on a calm survey began to feel this and consult among themselves about the necessity of taking some effective action and what such action ought to be. While they were considering the matter in this light, the great fire of May 4, 1851, or what was known as the fifth great fire of San Francisco, occurred. It took place on the anniversary of the second great fire; and this coincidence, as well as various threats that had been made and the burning about the same time of Stockton and Nevada, convinced them that all these conflagrations were the work of incendiaries. It was felt that under the circumstances there was but one thing to do; and it was to be done at once. The people must protect themselves; and, to protect themselves, they must organize. Like a solution of chemical salts, so concentrated as to have passed in quietude the stage of crystallization, it required only a disturbance—and it mattered not how little or how great a disturbance—to throw its component particles into definite arrangement. But the result in this case, instead of merely forming separate crystals, was to combine the different units of the popu-

¹ *Annals of San Francisco*, 317-320.

lation into one organic body, unique in its kind, which soon became famous as the vigilance committee of San Francisco.

It was in the early part of June, 1851, that the organization started with the adoption of a constitution, which set forth that, as it had become apparent to the citizens of San Francisco that there was no security for life or property under the regulations of society as they existed or the law as it was administered, therefore those whose names were attached united themselves into an association and bound themselves, each unto the other, to do and perform every lawful act for the maintenance of order and to sustain the laws when faithfully and properly administered; but they were determined in any and all events that no thief, burglar, incendiary or assassin should any longer escape punishment either by the quibbles of the law, the insecurity of prisons, the carelessness or corruption of the police or the laxity of those who pretended to administer justice. And to secure these objects they agreed that the name and style of the association should be the "Committee of Vigilance" and its object the protection of the lives and property of the citizens and residents of the city of San Francisco; that there should be a room selected for the meetings and deliberations of the committee, at which one or more members should be in constant attendance to receive reports of any act of violence done to person or property; that in case of report of violence, if in the judgment of the member or members present it was such an act as would justify interference of the committee, either to aid in the execution of the laws or to visit upon the offender prompt and summary punishment, the committee should at once assemble for the purpose of taking such action as a majority should determine upon; that it should be the duty of any member or members on duty at the committee rooms, when a general assembly was deemed necessary, to cause a call to be made by two strokes upon a bell, repeated with a pause of one minute after each alarm, and the alarms to be struck until ordered to be stopped; that when assembled for action the decision of a majority of those present should be binding upon the whole committee; that all members pledged their honor to defend and sustain each other in carrying out the determined action of the committee at the hazard of their lives and fortunes; that as

officers to carry on the general business there should be chosen monthly a president, secretary and treasurer; that it should be the duty of the secretary to detail the members required to be in daily attendance; that a sergeant-at-arms should be appointed who should reside at the committee room and whose duty it should be to notify members of their detail for duty; that there should be a standing committee on finance and one on qualifications of membership, each consisting of five members, and that no person should be admitted to membership except a respectable citizen, approved by the committee on qualifications.¹

An occasion soon happened to test the character of the committee of vigilance. On the evening of June 10, 1851, one John Jenkins, a so-called "Sydney cove," burglarized a store on Commercial street wharf and stole a small iron safe. He was seen not long afterwards with a heavy burden in a sack upon his shoulder and pursued. He managed to reach a boat and jumping into it tried to escape by sculling; but, being followed by a dozen other boats in keen pursuit, he was soon overtaken. Just before being caught he was seen to throw his burden over into the water, which upon being hauled up proved to be the stolen safe. The prisoner was at once taken to the room of the committee on the corner of Bush and Sansome streets; and immediately afterwards the vigilance alarm was struck on the bell of Monumental Engine Company. It was then ten o'clock at night; but in a few minutes about eighty members of the committee assembled in the room, while an excited crowd, some of whom knew and others of whom suspected what was going on, gathered on the outside. There was no hesitation on the part of the committee. They proceeded at once to try the prisoner and in the course of a couple of hours, after listening to all the testimony, which left no doubt on their minds, though he maintained to the last that he was innocent, pronounced him guilty and sentenced him to death. As sentence was passed—it was then midnight—the bell of California Engine House was tolled and gave notice of what was to follow. On being asked if he had anything to say for himself, Jenkins answered that he had not and that all he wanted was a cigar. This was given to

¹ Annals of San Francisco, 568, 569.

him, and soon afterwards a glass of brandy and water. He was cool and apparently careless and probably did not realize the gravity of his situation.

About one o'clock in the morning Samuel Brannan made his appearance in the middle of the crowds in the street and, mounting a sand bank, addressed the people. He said that he had been deputed by the committee of vigilance to inform them that the prisoner had been fairly tried, had been proved guilty, had been sentenced to be hanged, and would be executed within an hour on the public plaza. He then wanted to know whether the people approved the action of the committee; and in response to the question, a great shout of affirmation burst forth accompanied with a few cries in the negative. In the interval a clergyman had been sent for and was closeted with the condemned man. Soon after two o'clock, and less than five hours after the assembling of the committee, they issued in a body from their building, carrying the prisoner with them, his arms tightly pinioned. They were all armed and, forming a procession with Jenkins in the middle, marched directly to Portsmouth Square. On the upper part of the public ground stood a magnificent flag-staff, one hundred and eleven feet in length, the gift of citizens of Portland, Oregon, which had been erected on the previous Fourth of July. Some thought it might serve for the hanging; but the crowd objected to its use for that purpose and proceeded to the old adobe building, formerly the Mexican custom-house, which still stood on the northwest corner of the square. One end of a long rope, that had been passed through a block fastened to a second rope stretched between two posts of the gable at the southern end of the building, was hastily tied into a noose and thrown around the neck of the prisoner; and, as he was hurried forward, the other or loose end was seized by a number of persons, who running backwards dragged the victim off his feet, along the ground and up to the block; and there they held him. He was a strong, healthy man and his struggles for a few minutes were very violent; but he had not spoken a word after leaving the committee room and was strung up and probably became insensible before he was fully conscious of what was taking place. The body was kept hanging for several hours, new hands reliev-

ing those tired of holding the rope. Though the hour was so unseasonable, there were over a thousand persons present; but there was little or no noise and no confusion. Some of the regular authorities spoke of interfering; but they were ordered to stand back and, seeing that the people were terribly in earnest, they found it prudent to do so.¹

Later in the day the body of the dead man was taken in charge by the coroner and an inquest held. At this investigation a number of witnesses belonging to the committee of vigilance were examined. They declined to answer certain questions designed to implicate them, but avowed that the deceased had been fairly tried, found guilty, sentenced to death and executed by the vigilance committee, and that the vigilance committee consisted of a large number of good citizens, whose only object was to assist in the administration of justice and the protection of the city by the punishment of crime. Upon this and other testimony the coroner's jury, on June 12, returned a verdict to the effect that John Jenkins, alias Simpton, had come to a violent death by strangulation at the hands of, and in pursuance of preconcerted action on the part of, an association of citizens, styling themselves a committee of vigilance. The verdict then proceeded to name nine persons, commencing with Captain Edgar Wakeman and ending with Samuel Brannan, as members of the committee who were implicated by direct testimony, and then a number of others as members by voluntary avowal of participation. This verdict, by singling out the names of a few persons, was invidious; and the next day, June 13, the committee adopted a resolution, which they ordered to be published, giving the names of all its members, over one hundred and eighty in number, stating that the coroner's jury had been notified that they were all participants in the trial and execution of Jenkins and repeating over the fact that they were all equally implicated and equally responsible.

At the same time the committee adopted a series of resolutions, which it issued in the form of an address to the people, to the effect that whereas the citizens of San Francisco were convinced that there existed a band of robbers and incendiaries, who had

¹ *Annals of San Francisco*, 281, 282, 570, 571.

several times burned and on other occasions attempted to burn the city and who nightly attacked their persons, broke into their houses, destroyed their quiet, jeopardized their lives and property and disturbed the natural order of society; and whereas many of those who had been arrested by the police had succeeded in escaping from their prisons through carelessness or connivance or want of proper means or force to secure their confinement; therefore resolved that the citizens should be made aware that the committee of vigilance would be ever ready to receive information as to the whereabouts of disorderly and suspicious persons; that all who were known to the police or members of the committee as felons by conduct or association should be notified to leave the port within five days from date or at the expiration of that time be compelled to depart; that a safety committee of thirty persons should be appointed to visit every vessel arriving with notorious or suspicious characters on board and cause them to be reshipped to the places whence they came, and that all good citizens should be invited to join and assist the committee of vigilance in carrying out measures so necessary for the restoration of the peace, safety and good order of the community.

It was very evident that the committee, which in the meanwhile had moved to larger and more convenient quarters on Battery near Pine street, intended to do what it proposed, if possible, and that it would not be deterred by anything but invincible force. Its members were among the very best and most influential citizens; its numbers were constantly increasing; and its objects were approved by the people in general. It recognized the fact that it had opponents among those of the officials, politicians and lawyers, with whose business it interfered; but it had the moral support of the community; and it pursued the even tenor of its way, nothing daunted by threats and without fear or hesitation. Its determined and methodic action from the start had produced consternation among the criminal classes; and many of them had, without waiting to be notified, emigrated to the interior, where they subsequently swelled the number of those executed by lynch-law in the mines. Others waited to be transported and were, as opportunity offered, sent away. A few persons, who were charged with being bad characters, appealed

to the committee and, on proof of innocence or rather want of proof of guilt, were allowed to remain. But some of the worst and most desperate and dangerous villains were left. In endeavoring to find, follow and seize them, opposition was made to searches being prosecuted in certain quarters, whereupon, on July 5, an additional address to the public was issued, calling upon all good citizens to give all the information in their power to enable the committee to carry out its objects and notifying everybody that in its search for suspicious characters or stolen property, it claimed the right to enter upon any premises where it had good reason to believe either could be found; and that, being convinced that its cause was a good and just one, it intended to maintain it.¹

Among the suspicious characters arrested and held in confinement by the committee at this time was the notorious James Stuart, the man for whom Thomas Burdue, as has been seen, had been taken and in whose place, on account of mistaken identity, he had been convicted at San Francisco of the robbery of Janson and at Marysville of the murder of Sheriff Moore. Burdue was at that very time lying in jail under sentence of death by the Marysville court. As soon, however, as the real Stuart was brought into the presence of persons, who had known him, it was seen what a singular mistake had been made in reference to Burdue; and steps were at once taken to have him released. As a matter of fact—as was easily and clearly shown as soon as the real Stuart was recognized—Burdue was entirely innocent of the offenses charged against him and of which he had been convicted. On representations to this effect being made to the legal authorities by the vigilance committee, the sentences against him were annulled and he was restored to liberty. On his return to San Francisco, a liberal subscription was raised among the citizens and paid, to in some measure compensate him for the suffering to which he had been unjustly subjected.²

Meanwhile the committee of vigilance found that they had in their hands one of the most daring and determined criminals in the country. He was an Englishman and had been transported

¹ Annals of San Francisco, 572–578.

² Annals of San Francisco, 320.

at an early age to Australia for forgery. From there he had escaped and wandered from place to place, pursuing a career of crime, until he finally reached California; and during his short residence here he was supposed to have committed more and more atrocious offenses than any other scoundrel unhanged. He was so bold and reckless and had hitherto enjoyed such immunity that he thought it a small matter, notwithstanding the committee of vigilance, to make his appearance in San Francisco. But the committee had possession of him only a short time before it was plain to his mind that his days were numbered. It could not be bribed or cajoled or even delayed; and there was no escape from it. Recognizing this fact and following the natural bent of a despicable character, he made what he called a confession—a narrative of vice and villainy—in which he endeavored to involve various other persons, against whom he evidently had grudges, in his own imminent destruction. It was published in the newspapers and attracted considerable attention at the time; but, on account of its source and particularly its mean and treacherous spirit, no one had much faith in its statements and it seems to have done no good whatsoever except to convince everybody, if he was not convinced before, how base, contemptible and devoid of every principle of honor the fellow, who had posed as a sort of criminal hero, really was.

The committee made short work of him. On the morning of July 11, just one month after the hanging of Jenkins, another alarm on the bell of Monumental Engine House, the meaning of which was perfectly well understood, called the committee together again on a matter of life and death. It was for the trial of Stuart, and no time was wasted. There could be no doubt about his guilt; and being convicted he was sentenced by unanimous voice to immediate death by hanging. As in the case of Jenkins it was thought proper to notify the crowds of people, who had congregated in the streets about the committee building, of what had taken place. This was done by Colonel Jonathan D. Stevenson, who in a brief address stated the facts and asked if the people approved the proceedings. Being answered by a loud shout in the affirmative, he reported to the committee; and arrangements were at once made for the execu-

tion. Stuart, who was manacled in an adjoining room, was aware of what was going on and doubtless felt anxious; but for a time he assumed an air of bravado and several times remarked that the whole business was getting "—— tiresome." He begged a chew of tobacco and endeavored to strengthen his nerves by munching it. Being informed of his sentence, he was told that he would be allowed two hours to prepare himself for death; and an Episcopal clergyman, the Rev. S. F. Mines of Trinity Church, was sent to and remained with him. At the expiration of the two hours, he was brought forth, still manacled and guarded; a procession was formed by the committee, which by that time numbered about four hundred persons; and a great crowd followed. They proceeded along Battery street to Market and down to the end of Market street wharf. At that place there stood a derrick. As they approached it, the condemned man began to weaken and had to be supported by his guards. But it was only for a moment or two. The fatal rope was quickly thrown around his neck and with a jerk he was hoisted off his feet. The jerk was probably merciful. He did not struggle much. In a few seconds his hat fell off and a slight breeze gently waved his hair. It was then late in the afternoon. About twenty-five minutes afterwards, life being entirely extinct, the body was lowered and allowed to be taken possession of by the authorities.¹

There was a coroner's inquest, as there had been in the case of Jenkins, and a verdict that the deceased had come to his death by hanging at the hands of a body of men styling themselves the vigilance committee of San Francisco, and with this the action of the authorities for the time came to an end. But not long afterwards the grand jury of the county, empaneled for the July term of the court of sessions, in a long report on the state of crime in San Francisco, took occasion to discuss the subject of the committee of vigilance and, while acknowledging their indebtedness to it for much valuable information and many important witnesses, to make some very pertinent remarks, virtually approving its institution. They spoke of the delays and the inefficient and corrupt administration of the law, the incapacity

¹ Annals of San Francisco, 578-581.

and indifference of its sworn guardians and ministers, the frequent and unnecessary postponement of important trials, the disregard of duty of some of the judges and the many notorious villains who had gone unwhipped of justice; and they were of opinion that the committee of vigilance in their action were governed by a feeling of opposition to the manner in which the law had been administered and to those who had administered it, rather than to any determination to disregard the law itself. They went on to say that the power of correcting the abuses complained of was in the people themselves; that if officers were unfit for their stations, if laws were not faithfully executed, if criminals procured their own friends to be placed on the juries that were to try them, whose was the fault and where was the remedy? If citizens, who were most interested in having good and wholesome laws and seeing them purely and well administered, would not give sufficient attention to elections to secure proper officers or omit to obey the mandates of the courts when summoned as jurors and witnesses, as had been too often the case, could they expect to see justice prevail or crime punished? And was it not in the neglect of their duties in these important particulars that the true fountains, from which many of the evils suffered had sprung, were to be found? Under the circumstances, the grand jury, whilst deplored the acts of the vigilance committee, believed it to be influenced in its action not by personal or private malice but by a regard, at great personal sacrifice, for the best interests of the community and at a time when all other means of preventing crime and bringing criminals to punishment had failed. And they dismissed the matter as among those peculiar results of circumstances, that sometimes startle communities, which they could not justify but in reference to which they could not by any presentment effect any benefit either to individuals or to the county, and with the hope that there would be an effort on the part of all well-disposed citizens to correct the abuses referred to by selecting proper officers to take the place of those who had violated their trusts, and by performing each his part in the administration of the laws. If this were done, the ax would have been laid at the root of the tree; the proper remedy would have been applied for the correction of the griev-

ous evils from which the city and county had so long suffered; and there would be no necessity for any further action of the committee.¹

So far the legal authorities, though there had been more or less talk and some threats, had not seriously interfered with the committee of vigilance. It, on its part, had met with very general public approval and support and continued to increase in numbers. The press, with the exception of one newspaper which however had little or no character or influence, gave it cordial and effective aid; and even the pulpit, so far as it discussed the matter at all, expressed satisfaction and applause. Its work was nearly completed; the atmosphere of San Francisco was nearly cleared; the hanging of Jenkins and particularly of Stuart had struck terror into the criminal classes; and except the disposition of a couple of rascals in the hands of the committee little remained to be done. But at the same time there were various individuals—some of them officials, some politicians and some lawyers, as before stated—who opposed the action of the committee and managed in the end to bring about a direct conflict between it and the authorities. The manner in which this was accomplished was by making use of John McDougal, then occupying the position of governor of California.

The two scamps still in the hands of the committee of vigilance were Samuel Whittaker and Robert McKenzie. They had been associates of Stuart and, after trial and conviction for various heinous crimes, of which they finally confessed their guilt, they were sentenced to be hanged. It was rumored that their execution was to take place on August 21. On August 20, Governor McDougal, much to the surprise of nearly everybody, issued a proclamation, addressed to the people of San Francisco and directed against the vigilance committee by name, calling upon all good citizens to unite for the purpose of sustaining public tranquillity, aid the public officers in the discharge of their duty and by all lawful means discountenance any and every attempt made to substitute the despotic control of a self-constituted association, unknown to and acting in defiance of the laws, in the place of the regularly organized government

¹Annals of San Francisco, 581, 582.

of the country. Under ordinary circumstances there would have been no fault found with the governor's proclamation, unless perhaps that it was rather late in making its appearance; but the surprising thing was that McDougal should issue it after having asked to be introduced to the committee of vigilance, after having visited and been received as a distinguished guest at their quarters, after having expressed to it his approval of its acts, declared his satisfaction at the great good it had done, and hoped it would go on and endeavor to act in concert with the authorities; and finally after having openly, in the course of his remarks on that occasion, advised the committee, in case any judge was guilty of maladministration, to hang him, and he would appoint another in his place.

McDougal not only issued his proclamation; but he sued out a writ of habeas corpus for the persons of Whittaker and McKenzie, which he placed in the hands of John C. Hays, the sheriff of San Francisco, and ordered to be served. On the morning of August 21, before dawn, Colonel Hays, with one of his deputies, followed by a number of policemen as assistants, proceeded to the rooms of the committee and demanded the prisoners. His unexpected show of force at that hour was of course much greater than that of the committee, which was altogether unprepared for such an attack at such a time. Those of the members that were present, finding themselves outnumbered, could make no resistance; and the sheriff took the prisoners and removed them. All they could do was to sound an alarm on the bell of California Engine House, which immediately called up a full attendance at the vigilance head-quarters; but by that time the sheriff had Whittaker and McKenzie in the county jail, and a guard posted to prevent any immediate attempt to retake them. All this took place on Thursday morning. As soon as the facts became known there was great excitement. The authorities, led by those who managed the governor and backed by those who especially relied upon the criminal classes for their support, felt elated with their success in thus circumventing the formidable committee of vigilance, which had suddenly become so great a power in the land; while the members of the committee, supported by the better classes

of the community, felt chagrined but still determined so far as possible to pursue and carry out to completion the work upon which they had entered.

The committee was equal to the exigency. On Sunday, August 24, at about half past two o'clock in the afternoon, while the prisoners in the county jail, among whom were Whittaker and McKenzie, were attending religious services conducted by the Rev. Albert Williams, an armed party, consisting of thirty-six members of the committee, made a forcible entry into the midst of the congregation. There was some slight show of defense by the jailers and guards; but the tables were turned now; and the vigilants were irresistible. They, however, asked for nothing and wanted nothing except the two men, Whittaker and McKenzie; and, seizing them with a grip that would not easily be again relaxed, they hurried them out into the street and into a coach, that was in waiting for the purpose, and drove off at full speed to the vigilance head-quarters on Battery street. At the same time the bell of Monumental Engine House began tolling rapidly and loudly—not for fire, but with a stroke that was well understood to mean a vigilance execution. At the sound almost the entire population seemed to leap; and immense crowds from every direction poured into the streets about the committee rooms. Those rooms were in the second story of a business house on the west side of Battery between California and Pine streets. Over two of the openings intended for the reception of goods into the second story projected beams and at the end of each of these beams was a block and tackle. Within seventeen minutes after the prisoners were brought in from the jail, they were dangling by the neck from these beams—the loose ends of the tackle, which choked the life out of and suspended them, being held by members of the committee inside the building. There was said to be at least six thousand persons who witnessed the execution; and, as the wretches were pushed out of the openings and swung off, there was a long and loud and general shout of satisfaction from the multitude.¹

After the bodies had hung about half an hour, they were

¹Annals of San Francisco, 582-585.

removed and subsequently delivered over to the coroner. Meanwhile Samuel Brannan, Stephen Peyran and a few other members of the committee had addressed the crowds in the street, thus manifesting the recognition on the part of the committee of the fact that it depended for its authority and support upon the will of the people. The answer of the people was unqualified approval; and, public sentiment being for the time satisfied, the crowds dispersed. In the evening of the same day, a jury which had been hastily collected by the coroner to hold an inquest over the bodies, returned a verdict in accordance with the circumstances—and that was substantially all that was done on the part of the authorities. They in fact soon found that the committee of vigilance was not only too powerful to be seriously interfered with in the city of San Francisco, but that it had the moral support of the better classes of people throughout the state. The necessity of protection against the criminal classes, which the regularly constituted tribunals were as yet unable to afford, was felt in every quarter; and the methodical completeness and efficiency of the San Francisco organization induced many of the towns and populated neighborhoods of the interior, among them Sacramento, Stockton, Marysville, San José and various mining camps, to organize committees of their own, which immediately opened communication and affiliated with the San Francisco committee. In a comparatively short time there was a complete net-work of information and service between different parts of the country; and many of the scamps, who had been driven from San Francisco and sought safety in the mines, either met their fate there or were driven further. And for a time, a few years at least, there was some security and safety for life and property in California.¹

The Augean stable had been cleaned and the atmosphere sweetened, so to speak; but there were numerous persons, who had been ordered to leave the state under penalty of death if they returned, whom it might become necessary to look after; and there were also several questions of liability for acts that had been done, which it was thought could be met better by the committee as an undissolved body than by individual members

¹ Annals of San Francisco, 585, 586.

separately. Under the circumstances, soon after the execution of Whittaker and McKenzie, when the immediate work of the committee of vigilance was supposed to be substantially finished, it vacated its rooms and ceased to hold meetings or further to act. But it did not formally dissolve; and, for the next five years and until it was in effect revived, under the demands of new exigencies, by the formation of the new and improved San Francisco committee of vigilance of 1856, it was perfectly well understood that its members, while willing to leave the further administration of criminal justice in the hands of the regular authorities unless found entirely deficient in honesty and efficiency, were nevertheless ready at any time, if public necessity required, to return to their vacated rooms, form again into ranks of citizen soldiery and organize anew their tribunals that recognized no technicalities, allowed no delays and knew no fear or favor.¹

¹ *Annals of San Francisco*, 587.

BOOK IX

PROGRESS OF SAN FRANCISCO

CHAPTER I.

EARLY IMPROVEMENTS.

THE position of California from the American occupation in 1846 to the admission into the Union in 1850 was, as has been shown, anomalous. It differed from that of every other portion of the territory of the United States. Held at first, and while the Mexican war lasted, as a conquest, it became by the treaty of Guadalupe Hidalgo in 1848 an integral part of the public domain and subject, until it should become a state, to the exclusive control of congress. But congress failing to legislate or to provide any kind of government and an unprecedentedly rapid immigration flowing into the country, the executive at Washington found it necessary to maintain a sort of government by continuing the authority of the military governors. This constituted what was called the *de facto* government and was based upon the theory that the Mexican laws, except where in conflict with the fundamental principles of American polity, were still in force and were to be administered by American officers appointed by or under the authority of the president of the United States.

Upon the adoption of the state constitution in 1849 the *de facto* government, theretofore maintained by the executive at Washington, transmitted the control of the country to the government provided for by the constitution. But the latter was, no less than its predecessor, a mere *de facto* government. As a matter of strict law, there was no legal warrant for the calling of

the constitutional convention or for the assumption of political power by the officers elected and inducted into office under its authority. The Californians of that day, however, claimed it as a right, inherent in them as American citizens, in the absence of action by congress, to provide for their own government; and, with or without legal warrant, they exercised that right and did it well and effectually. Subsequently in 1850 the admission into the Union, by recognizing the state and placing it on a level with the other states, in effect ratified all that had previously been done as if it had been entirely legal from the beginning. Whatever doubts might otherwise have existed or might have been raised, there could from that time be no longer any question as to the validity and binding force of the constitution, the organization of the state government under it, the statutes passed at the first session of the legislature, and the various proceedings in different quarters by subordinate boards and tribunals taken by virtue of and in accordance with those statutes.

The news of the admission reached San Francisco by the steamer Oregon on October 18, 1850. The vessel came in through the Golden Gate with all its bunting flying and firing its guns. It thus ran along the city front to Rincon Point and then back to Clark's Point, opposite which it anchored in the stream and landed its passengers. The news occasioned great excitement and there was rejoicing on every side. In the evening a large and enthusiastic meeting was held on Portsmouth Square, at which impromptu speeches were made and the people of California congratulated upon the welcome intelligence. After the meeting the rejoicings were kept up in all the usual places of public resort and particularly in the one, known as Delmonico's Saloon, on Montgomery between Washington and Merchant streets, one of the largest and most popular. The crowd there gave expression to their satisfaction in a manner that was very characteristic of the time. This was by drinking champagne. It was not a drinking bout in the ordinary style; but everybody had to drink and drink in regular time. The company organized into squads, so to speak; and the method was for squad after squad to advance to the bar, drink and fall back, until its turn came again—and this was kept up nearly all night. The quantities of cham-

pagine consumed in California in the early days were enormous; and the incident described shows the reckless and extravagant spirit in which it was used. As the hilarity grew wilder there was some rough play. Every man, who wore a stiff-crowned hat, had it crushed down over his head and face—a process which in a few instances caused boisterous talk; but the occasion was an extra one: what was done was a way the Californians had of enjoying a good time; and no one could afford, or was allowed, to get angry.¹

Peter H. Burnett, who was then governor of California, happened to be at San Francisco on the day the news arrived and was present at the meeting on Portsmouth Square. The next morning he left for San José, the capital of the state, on a stage-coach, which was at that day the quickest mode of conveyance. There were two lines of stages running between San Francisco and San José, a distance of fifty miles, and they were rivals. One was owned by Jared B. Crandall, who was noted as a skillful driver. On this occasion, which was to be a trial of speed between the two lines, Crandall drove his own team; and Burnett sat on the top seat beside him. Both stages started at the same time and both, being the bearers of good news, did their best. After passing over the sands between the plaza and the mission, through which the pulling was heavy, they struck the hard, dry and smooth road, skirting the western base of the San Bruno Mountains and running thence, within sight of the bay, past San Mateo and Mayfield to Santa Clara and from there, by way of the famous alameda, to the old pueblo. The drivers put their mustangs to the utmost of their powers and made some of the fastest time up to that period on record. As they flew past town and village and ranch-house, the people flocked out to see what caused the hubbub; but, without in the slightest degree slackening their gait, the carriers of the great intelligence simply took off their hats, waved them around their heads and shouted at the tops of their voices "California is admitted into the Union!" Upon this announcement everybody along the line became as excited and wild as those in the racing coaches; and long and hearty cheers followed as they tore along in their apparently

¹ Statement of Ferdinand Vassault, M S.

mad career. Such a scene, Burnett said, he had never before witnessed; he himself became more enthusiastic than on any other occasion within his experience, and he felt very sure that he could never forget Crandall's race, who however only beat his competitor into San José by a few minutes.¹

In much the same manner and creating the same kind of excitement the news of the admission flew from point to point throughout the whole state. Meanwhile preparations were initiated and arrangements made for a grand celebration of the auspicious event at San Franciscó. It took place on October 29, 1850, eleven days after the arrival of the information; and it was one of the most complete, harmonious, unanimous, generally-observed celebrations ever held in the city. Almost all the buildings were gaily decorated and the shipping in the harbor covered with flags and streamers. At a seasonable hour there was a procession of all the public bodies and people, military and civil, with appropriate banners and devices, including a very large number of Chinese in all the paraphernalia of their barbaric pomp, which marched to Portsmouth Square and listened to an oration, prepared for the occasion by Justice Nathaniel Bennett of the supreme court, and other exercises. At intervals during the entire day, there were salutes and salvos of artillery and discharges of small arms. In the evening there was a general illumination with fire-works and bonfires on the surrounding hills and islands in the bay; and at night and throughout the night took place the grandest public ball witnessed in California.²

San Francisco at that time contained a population of about twenty-five thousand persons. Its growth had been very remarkable. The tents and shanties of 1848 and 1849 had disappeared from its business quarters and many of the old frame buildings, lined with cotton sheeting and paper, which succeeded them, had in turn disappeared and were replaced by more substantial structures. There were still many frail and flimsy houses on the outskirts; but, with the continual increase in population and business, there was extraordinary activity in improvements; and the general progress was phenomenal, per-

¹ Burnett's Recollections, &c., 375, 376.

² Annals of San Francisco, 294, 295.

haps unprecedented. The first city charter, passed by the legislature on April 15, 1850, had fixed its southerly boundary by a line parallel to Clay street two miles south of the center of Portsmouth Square and its western boundary by a line parallel to Kearny street a mile and a half west of the same center, having its northern and eastern boundaries commensurate with those of the county. The area of land, above high-water mark, included within these limits was nearly five square miles. But there was very little, if any, of it that was level or suitable for building on without some change, either of excavation or filling up; and hardly a single spot, when it came to be covered with buildings, remained with its old surface. Fortunately most of the uneven surface consisted of sand, which was moved with comparative ease; and the work of grading advanced as rapidly as more and more level space was required. While the hills and ridges of sand, many of them upwards of fifty feet high, were being lowered and the material used partly to elevate hollows and partly to fill in mud flats, great quantities of piles were brought from far and near to build wharves and extend the city front into the bay. In the course of 1849 Broadway street wharf, two hundred and fifty feet in length, had been constructed and by the end of the same year another wharf had been run out on the line of Commercial street from Montgomery street eastward about eight hundred feet. This structure subsequently, in June, 1850, was partly consumed by fire; but it was almost immediately afterwards repaired and by degrees extended a distance of two thousand feet into the bay. It constituted what was then and for years afterwards known as Long Wharf. Other wharves were also commenced and gradually run out into the bay—among them Market street wharf, which by October, 1850, extended six hundred feet, California street wharf four hundred feet, Sacramento street wharf eight hundred feet, Clay street wharf nine hundred feet, Washington street wharf two hundred and seventy-five feet, Jackson street wharf five hundred and fifty feet and Pacific street wharf five hundred and twenty-five feet. Besides these, which were generally owned by private companies, there were several piers, owned by private individuals, such as Howison's pier between California and Sacramento

streets and Cunningham's wharf and Lewis' wharf near the foot of Green street. Altogether there was over six thousand feet of wharfage, which cost over a million of dollars. The wharves named from the streets were extensions of such streets; and as they moved forward the piling and capping of the lots between them followed; so that by degrees, as the city advanced, all its lower portion, including the greater part of its business quarter, was built on piles; and between the long rows of these piles and under the houses, as well as the wharves, flowed and ebbed the waters of the tides. As the sand hills were removed and the filling in of the mud flats progressed, the wharves became streets and the houses rested on a foundation of earth; but not before many of the piles had become honey-combed by the depredations of the marine worm, known as the teredo, and numerous cases had occurred of collapses and precipitations into the brine and ooze.

The first filling in of a water lot in San Francisco was done by Captain Joseph L. Folsom on the north side of California street west of Sansome. The work was very expensive; but the property appreciated in value so rapidly that the cost was found to be a good investment; and others imitated the example. Meanwhile as the wharves extended out into the bay and cross streets were built on piles between them, thus inclosing blocks of water, a number of old hulks or dismantled vessels, that had been drawn up on the mud flats at high tide and converted into business places, were shut in. There were some twenty of them thus utilized. One was the brig Euphemia, purchased in August, 1849, by the ayuntamiento for a prison, already mentioned. It was anchored near the southeast corner of Jackson and Battery streets and continued to be used as a jail for several years. Another was the ship Apollo, which was anchored near the southwest corner of the same streets. It had been used as a store ship; but when Battery street, on being piled and capped, closed it in, it was converted into a lodging house and drinking shop and called the "Apollo Saloon." As a considerable portion of the hull rose above the level of the surrounding streets when they came to be filled in, the old hulk, located in the middle of the business part

¹ Hittell's San Francisco, 164, 165; Annals of San Francisco, 291-293.

of the city, surrounded on all sides with large blocks of substantial edifices, presented an object of curiosity and astonishment.¹

Another was the hull of the ship Thomas Bennett on the south side of Howison's pier near the corner of Sacramento and Sansome streets, which served, until the building of Monumental Engine House, as the head-quarters of the young blades from Baltimore.² But the most notable of the old hulks, perhaps, was that of the ship Niantic. It was of four hundred and fifty tons burden and had been hauled up on the lot on the northwest corner of Clay and Sansome streets. After the masts and rigging and some of the ballast were removed, piles were driven on each side to steady the hull, which was then used for storing merchandise. Meanwhile filling in was done all around it and the city moved beyond it. The May fire of 1851 destroyed all except such portions as were under-ground. Soon afterwards a hotel, called the Niantic House, was erected on the remains of the old hulk as a foundation. It was popular for some years but finally superseded by more pretentious places; and in 1872 it was torn down and the lot excavated to make room for the foundations and cellar of a large and imposing brick structure. In digging, the workmen found the bottom of the old hull filled with dirt and covering various articles of merchandise, including several cases of "Jacquesson Fils" champagne, which had been buried there for upwards of twenty-one years. The bottles were in good order; but the wine had seen better days. It had doubtless been deposited there before 1851 and the dirt washed in at the time of the fire or in the course of the filling in of the lot; and no one had thought of or sought after the deposit in the meanwhile.³

Up to the winter of 1849-50, which as has been stated was an extraordinarily wet one, there had been little or no improvements in the streets and their condition, when the rains came on, was almost terrible. The mud was so deep that it became impossible in many places for a vehicle to make its way and even unladen and unharnessed horses and mules found difficulty in getting

¹ Annals of San Francisco, 233.

² Barry and Patten's Men and Memories, 106, 107.

³ Hittell's San Francisco, 165, 166; Barry and Patten's Men and Memories, 136.

along. The city authorities caused great quantities of brushwood, cut from the surrounding hills, to be thrown into the worst places; but they answered only a limited and temporary purpose; and during a portion of the season most of the thoroughfares were almost, if not quite, impassable. Cases of stalling in the streets were of daily occurrence; and sometimes it was only with great trouble that teams and animals could be extricated and saved from being swallowed up. Two horses were said to have sunk so deep in the mud of Montgomery street between Sacramento and Clay that they could not be drawn out and had to be abandoned and left to die there. Pedestrians also were obliged to pick their paths with great circumspection; and not unfrequently, in attempting to tread the occasional planks or jump from the boxes and barrels that were or had been thrown into the mire to afford footing, they slipped and fell in their entire length. Three intoxicated men were reported to have fallen in the mire on Montgomery street between Washington and Jackson, in the night-time and suffocated. In the most frequented portion of Montgomery street, between Clay and Jackson, there was a sort of sidewalk, extending seventy-five yards, constructed in part of bags of Chilean flour pressed down nearly out of sight in the soft mud, in part of a long row of cooking stoves and in part of a double row of large boxes of tobacco, all which merchandise was at the time, on account of the supply far exceeding the demand, a drug in the market, while lumber was worth some five or six hundred dollars per thousand feet. Barrels of spoiled provisions and a few of the useless gold-washing machines, imported in almost every vessel, also served on one of the street crossings in place of stepping-stones.¹

Such a condition of streets in a city that was growing with an unparalleled rapidity, and whose imports were larger than those of any other American port except New York, could not be tolerated for another winter. Steps were immediately taken to improve the main thoroughfares; and the work commenced as soon as the clearing-up weather of spring permitted. There was

¹ Annals of San Francisco, 215; Hittell's San Francisco, 154; The Argonauts of California, by C. W. Haskins, New York, 1890, 48; The Early Days and Rapid Growth of California, by Alfred Peabody, Salem, Mass., 1874, 15.

no gravel in the neighborhood; but there was plenty of sand and rock, which were used for grading and in some places for making the entire street. But the usual material for road-beds, as well as for sidewalks and sewers, was planking of the same kinds and qualities as were used for wharves. In some places, where permanently wet spots had to be crossed, piles were driven down and the street built on top of them. Thus a start was made and industriously carried forward to improve all the streets between Broadway on the north, Stockton on the west, Bush on the south and the wharves on the east. The expense of these improvements was about a half million of dollars, of which the city undertook to pay about one-third and to raise the other two-thirds by assessment on the adjoining property. It was a grand purpose; but the carrying of it out initiated a system of official robbery, under the name and guise of street contracts, which to a greater or less extent still continues.¹

In the meantime, while the manipulators of municipal work were busy with their street contracts, which were to be paid for partly out of the city funds and partly by the property owners, and a percentage of the cost of which was popularly supposed to be devoted to securing official favor, an enterprising individual, named Charles L. Wilson, proposed to build at his own expense a plank road from the city to the Mission Dolores. The proposition was to construct the road, by the way of Kearny, Third and Mission streets, from California to Center or what is now Sixteenth street, a distance of a little over two miles and a quarter—provided he were to be allowed to collect certain rates of toll from those passing over it and to have the exclusive right of way for ten years, at the end of which time the road was to belong to the city. This seemed fair enough; but it met with much opposition. The road was much needed, because the ordinary route to the mission, which was substantially the only place of resort outside the city, was very sandy, sinuous and difficult to travel—at one place making a great bend in order to avoid a broad ravine of quagmire or bog between the present lines of Seventh and Eighth streets. It was this sand and the difficulty of crossing the bog that made a journey to or from

¹ *Annals of San Francisco*, 295, 296.

the mission quite an undertaking and rendered the cost of transportation of anything like merchandise enormous. It cost from fifteen to twenty dollars to move a load of hay from the Mission to the city; and Governor Burnett, in August, 1849, to move his family from the city to San José, paid the owner of a spring wagon one hundred and fifty dollars, a large part of which was to cover the bad road to the Mission.¹

Notwithstanding the opposition to Wilson's proposition, he finally managed, in November, 1850, to get it through the common council of the city, which in those days, in accordance with the charter, consisted of a board of aldermen and a board of assistant aldermen, each of eight members or one from each of the eight wards into which the city was divided. But it passed only on condition that the franchise should expire in seven instead of ten years, and that the road should be completed within six months. Even in that shape it still encountered the opposition of John W. Geary, the mayor, who returned it without his approval; and it was then passed over his veto. Subsequently, on account of a doubt in regard to the legality of the council's action, the ordinance authorizing the road was carried to the legislature and on April 5, 1851, ratified and confirmed in all its provisions.² Meanwhile Wilson and his associates went on with the work. Several sand ridges crossing Kearny street, south of California, had to be cut through, particularly one near Post street, where, as a point which could not be avoided, the toll gate of the road was established and for several years maintained. Much grading was also necessary at points along the line of Mission street; but the most expensive part of the work was a bridge several hundred feet in length over the ravine of quagmire near Seventh street before mentioned. It was intended to build this bridge on piles; but the first pile that was placed in position, though twenty feet long, was driven entirely out of sight by the first blow of the pile-driver. A second pile of equal length was placed on top of the first; but, to the utter astonishment and dismay of the contractor, it too disappeared under a couple of blows. This indicated that there was no solid founda-

¹ Annals of San Francisco, 296, 297; Burnett's Recollections, &c., 340, 341.

² Corporation Manual, San Francisco, 1853, 108, 109; Stats., 1851, 327.

tion within forty feet and rendered the project impracticable. At the suggestion of the contractor, the plan of piling was abandoned and a platform of heavy planks laid over the bog, upon which cribs of logs were built up so as to make a foundation; and upon this the bridge was constructed. When first built it was a perfectly level structure, having a height of about twenty feet in the middle of the ravine; but on account of its foundation it always shook when crossed by heavy teams; and in the course of a few years, as the platform and logs settled deeper and deeper in the swamp, it sagged down in the center at least five feet below the horizontal.¹

The road, which consisted of a continuous floor of heavy planks, regularly and smoothly laid and wide enough for several teams to conveniently pass one another, was finished on the very last day that the law allowed for its completion. Its cost was about one hundred and fifty thousand dollars or nearly seventy thousand dollars per mile. The tolls allowed and charged were twenty-five cents for a single horse and rider, fifty cents for a horse and buggy, seventy-five cents for two horses and vehicle, and one dollar for a four-horse team. This was willingly paid and the custom and traffic on the road, being the only good one leading out of the city, was so great that it yielded a revenue of about ten per cent per month on the investment. Its success in attracting pleasure seekers and other visitors to the Mission and building up various places of resort in that neighborhood and along its own line and thus appreciating property, as well as the continued marvelous growth of the city, induced certain interested parties a year or two later to talk of opening a free road to the Mission of the same general character on the line of Folsom street, two blocks further south. As soon as the owners of the Mission street road heard of the new project, they presented themselves again before the common council and procured the passage of an ordinance, approved March 7, 1853, authorizing and allowing the old company to build a new plank road along the line of First street from Mission to Folsom and along the line of Folsom street from First to Center, consolidating the two

¹ Vassault's Statement; Hittell's San Francisco, 152, 153; Annals of San Francisco, 297, 298.

roads and extending the privileges conferred upon the old road, including the right to collect the same rates of toll, to the new one. There was no delay in building the new road, though it ran for nearly half a mile across salt-marsh swamps between Fourth and Eighth streets; and much trouble was experienced in filling them up with sand until a sufficiently solid foundation could be obtained on which to lay the planks. On occasion of an extraordinarily high tide backing up from Mission bay in 1854 a portion of the road between Fourth and Fifth streets was overflowed and the planking displaced and floated off. But this was but a temporary matter; and the new mission road, as it was called, which cost only about ninety-six thousand dollars, became a better and a more popular drive than the old mission road. As the city streets were extended and afforded easy means of getting around the toll house at the corner of Kearny and Post streets, that institution was removed out to a deep cut near Fourth street, while the toll house on the new road was placed near Fourth street where the swamps on either side admitted of no safe avoidance of it. Taking the two roads together, and estimating their cost at two hundred and fifty thousand dollars, they paid between 1853 and 1858, when the franchise expired and the roads became free streets of the city, an average revenue of three per cent per month on the investment.¹

Early records and the accounts of early arrivals concur in representing the growth of the city in 1849 and 1850 as something unparalleled. The number of inhabitants, which was estimated at two thousand in February, 1849, three thousand in March and five thousand in July, had increased to something in the neighborhood of twenty thousand before the end of the year; and all had to be provided with habitations of some kind. The houses, or what could be called houses, were confined almost entirely within an area of about half a mile square and, except in a few spots, widely scattered. There were several adobes, such as the old custom-house on the northwest corner of the Plaza, the City Hotel on the southwest corner of Kearny and Clay streets, a

¹ Vassault's Statement; Hittell's San Francisco, 153; Ordinances and Resolutions, San Francisco, 1854, 31-33.

dwelling at the northeast corner of Powell and Broadway and another at the northeast corner of Powell and Filbert streets; and there was one brick house on the northwest corner of Powell and Washington streets, then of two stories in height but afterwards increased to four, as the surrounding streets were graded down about sixteen feet, by adding stories underneath. The other houses, business as well as dwelling, were almost entirely frame, the former being nearly all along or near Montgomery street between Broadway and California or about Portsmouth Square and the others further back. The famous old Parker House, which was erected in 1849 on the east side of Kearny street, opposite Portsmouth Square, and on the site of what was afterwards the Jenny Lind Theater and subsequently the city hall, was a two-story frame building with a loft or attic and dormer windows. It cost, as before stated, thirty thousand dollars and was rented for gambling purposes at the rate of fifteen hundred dollars per month. The El Dorado, an adjoining gambling house on the corner of Washington street, was simply a tent; but it rented at the rate of forty thousand dollars per annum. Other buildings, that were in convenient locations, brought rents correspondingly enormous. The hills at the north and west of the portion of the city described and the sand ridges at the south were dotted all over with shanties and tents, which were usually located without regard to order along the winding trails and among the bushes and brambles; but these afforded no storage for goods and no safe or other than very temporary shelter for human beings. Under the circumstances there was a tremendous demand for houses and building. Real estate rose to amazing prices; fifty-vara lots, that had been sold for twelve-dollars, brought thousands and in some cases tens of thousands of dollars; interest advanced to from eight to fifteen per cent per month; bricks used in building were calculated to cost about a dollar apiece; and lumber jumped to five hundred dollars per thousand feet.¹

Notwithstanding these apparently excessive costs and in fact on account of them, or rather on account of the demand which

¹ Annals of San Francisco, 254; Bayard Taylor's El Dorado, 303; Hittell's San Francisco, 147.

occasioned them, building and the business of procuring building materials became extraordinarily active. The sawmills already established in the country, such as at Santa Cruz, where Isaac Graham alone had five leased to speculators,¹ and also in Sonoma county and at various points around the bay of San Francisco, were run to the utmost limit of their capacity; and others were established almost without number. Everything in the shape of available timber near the city, such as the lofty and magnificent redwood forest that crowned the opposite mountains of Contra Costa, rapidly disappeared and hardly a vestige was left behind except the great stumps, from five to twenty feet in diameter, the remnants of which still excite the wonder of those who visit them. At the same time the lumber trade along the ocean coast north of Russian river and in Oregon was greatly stimulated; and ship-loads after ship-loads of planks and boards and scantling and shingles crowded into the harbor. Not only lumber for houses but houses ready built soon began to come. A consignment of this kind, consisting of twenty-five wooden dwelling houses, all numbered in sections and fitted for immediate erection, was brought out by the ship Oxnard in November, 1849. They were imported for William D. M. Howard, who retained twelve and sold the others to Captain Joseph L. Folsom. All were erected in the city—three of them, which were put up on the north side of Mission street west of Third, were occupied by Mr. Howard, Henry Mellus and Samuel Brannan respectively. Others were erected on Mission street near Second and on Minna, Natoma, Tehama and Folsom streets, of which one was given by Captain Folsom as a present to the wife of each of his friends P. W. Van Winkle, Edward Cany and A. C. Wakeman. The house, in which Drury J. Tallant, the banker, lived on the west side of Dupont street between Pine and California, a three-story frame, was likewise brought from the east;² and such was also the case with nearly every house of the old time that made any pretensions to architectural grace or ornament.

A few large and substantial buildings of brick were started and their number rapidly increased; but in 1849 they had hardly

¹ Bayard Taylor's *El Dorado*, 195.

² Barry and Patten's *Men and Memories*, 205, 231.

become a feature of the city. The custom-house authorities continued to occupy the old adobe on Portsmouth Square until, in the early part of 1850, they moved into a new and commodious four-story brick building, which had been just completed on the northwest corner of Montgomery and California streets. The post-office was a very little one and a half story frame building on the southwest corner of Clay and Pike streets. It could neither accommodate many clerks inside or afford much standing room for inquirers outside. Upon the arrival of a mail from the eastern states there was always a rush; and there would have been sure to be confusion and riot, if it had not been for the admirable spirit already developed in the Californians—and invariable enough to be called a characteristic of them—to form a line at the end of which the newcomer took his place and waited his turn. There was no attempt at pushing or crowding or displacing anybody in the line—it would not have been tolerated. If a man wanted to be first at the delivery window, he could go hours before it opened and keep his place; and cases were known of persons taking their place the evening before and standing all night. Sometimes the line, or lines when there was more than one delivery window, would extend down Clay street to Portsmouth Square or along Pike street across Sacramento and up among the tents in the chaparral on the hill-side. Occasionally the lines were so long that it would take hours before a person could in the regular order of progression get his letters; and it got to be a custom for persons, who would rather spare their money than their time, to buy advanced positions; and not a few individuals made a lucrative business of getting early places and selling out as they got near the windows.¹

Growth and progress, under the circumstances, could not be otherwise than rapid. Everything was push and activity and excitement. James L. Tyson, a physician, who arrived on May 18, 1849, but was evidently too "slow" for the country and soon left, complained that he found everything "on the high-pressure principle and truly anomalous." Without going into lengthened details, he thought it would suffice to state that unoccupied ground, supposed to be eligibly located, met with ready sale at

¹ *Annals of San Francisco*, 259-261.

higher rates than the same amount would bring in the most business parts of any of the great cities of the Union. He said that pistols were fired in rapid succession in every direction; and that horses carrying drunken riders dashed through the streets, with gay serapes and gaudy trappings fluttering and flapping in the wind. Oaths, blasphemous oaths were heard on all sides. The vice of gambling prevailed to an atrocious extent; immense piles of gold in its natural state and in coin loaded the numerous monte and roulette tables; and the high rents the proprietors of these tables were able and willing to pay had contributed to give a fictitious value to property of all kinds.¹ William F. White, who came on June 30, 1849, found that all was bustle and rush in every sort of business at San Francisco. There was not much talking, but everybody had a remarkably quiet and off-hand way of dealing that was fascinating to one engaged in trade. It took only a few days' observation to see that the immigration that was pouring into the city was dividing itself into three great classes. One, constituting about a tenth of the incomers, were politicians, who had run themselves out at home and come to California to take a new start and finally developed into treasury thieves and official plunderers. Another class, constituting another tenth, were the idle loungers around gambling saloons—fellows who came to California with an idea that they could get gold without working for it. They had never labored in their lives and would rather starve than do anything of that kind. But much the largest class, comprising at least four-fifths of the American immigrants, who seemed to outnumber all others twenty to one, and perhaps as large a share of the immigrants from other lands, were earnest and industrious workers, who had the will, and were sure to find the way, to accomplish success in their new home.²

The author of "Golden Dreams and Leaden Realities," who landed on August 28, 1849, found everything on a monstrous and perverted scale. The apparent simplicity of the means employed was ridiculous compared to the sublime result. It seemed impossible that a wealth greater than that of the Indies should flow through such a narrow channel; that such prodig-

¹ Tyson's Diary of a Physician, 51.

² Picture of Pioneer Times, 95, 96.

ious power should be confined in the one story, wood and canvas houses of such an awkward, shambling city. It was as marvelous as that the genius of the Arabian tale should have shrunk his steeple-bulk into the little copper vessel or that the more modern genius of steam, which the other so well symbolized, should suffer himself to be penned in a narrow chest of mere iron or brass. Piles of merchandise of every description, bags, barrels, boxes and bundles filled the stores to repletion and ran over into the street. Fat, gouty, buckskin bags, bursting with gold-dust, turned up their round yellow sides on the rude counters, like frogs in the last stages of dropsy, while bars and lumps of still more seductive unity nestled on the window seats or leaned, poker-and-shovel-wise, against the corners. Pounds and ounces took the places of dollars and cents.¹ Bayard Taylor, who arrived about the same time, remarked that the most immediate and striking change that came upon the greater number of the immigrants, that landed in San Francisco, was an increase of activity and proportionally of reckless and daring spirit; and in another connection, having had occasion to take a three weeks' trip into the interior of the country, he stated that, upon his return to San Francisco, he could scarcely realize the improvements that had taken place. Not only had the city greatly extended its limits; but it seemed to have actually doubled the number of its dwellings.

The amount of importations into San Francisco in 1849 was enormous for a new city and it continued to increase for several years. Vast quantities of merchandise arrived daily and for various reasons, such as want of store room for the goods and want of credit for the buyers, had to be disposed of at once and for cash. This occasioned a great auction business—a very common mode of wholesaling in the olden time—which gave the start to many of the firms that afterwards became prominent and laid the foundations for many of the fortunes that afterwards became colossal. There were by the end of the year 1849 between three and four hundred large vessels lying in the bay, many of which, on account of the desertion of their crews, were destined

¹ Golden Dreams and Leaden Realities, 74, 75.

² Bayard Taylor's *El Dorado*, 109, 310.

never again to plow the ocean; and by the middle of 1850 the number had increased to about five hundred and twenty-five, besides about a hundred others, which were lying at Benicia, Sacramento and Stockton. The shipping was so large an interest that early in 1849 an enterprising firm, known as that of Sweeny & Baugh, proprietors of what was called the Merchants' Exchange, erected on the summit of Telegraph Hill a small building as a station of observation, which could be seen from every part of the city and from which an unrestricted view of the channel of entrance through the Golden Gate could always be obtained, except on dark nights and in cases of dense fogs. On the top of the building was a high black pole and attached to it, in such a manner as to be raised or lowered at pleasure, were two large black arms. When a vessel was seen approaching from the ocean, these arms were moved into certain positions that were understood to indicate its character. The signal for a side-wheel steamer, such as were used by the Pacific Mail Company, was the two arms extended on opposite sides at right angles to the pole; and whenever this signal was seen there was general excitement and a rush to the wharf to see friends or hear the news, or to the post-office to get letters. A ludicrous incident, illustrating the familiarity of everybody with the signal, occurred at one of the theaters a year or two later. The play was Sheridan's Hunchback and the house was crowded from pit to dome. Julia had quarreled with Clifford, when Master Walter, dressed in black which showed in bold relief against the light walls of the drawing-room, excitedly rushed on the stage and throwing out his arms exclaimed, "What does this mean?" For a moment there was no response, when a voice from the gallery roared out, "Side-wheel steamer!" The effect was electrical. The house burst into shouts of laughter; and for many minutes Master Walter could not go on with his speech. After the erection of the station on Telegraph Hill a second one with similar signals was built on Point Lobos, from which the ocean could be scanned as far as Point Reyes to the north, Point San Pedro to the south and the Farallones to the west.¹

¹ Annals of San Francisco, 252, 281, 465, 466; Barry and Patten's Men and Memories, 127, 128.

But while San Francisco advanced with astonishing strides extending in every direction and filling up with houses and a population that gathered accessions from every part of the habitable globe, it was not without many drawbacks. One of its difficulties was the numerous and devastating fires or conflagrations that occurred in 1849, 1850 and 1851 and, singularly enough, have not for more than forty years, during which the city has grown to about fifteen times its size in 1851, been followed by anything to at all compare with those destructive calamities of its earlier years. The first of these, or the "First Great Fire" as it got to be called, occurred on December 24, 1849. It commenced at six o'clock in the morning in Dennison's Exchange on Kearny street opposite Portsmouth Square and spread with terrible rapidity on both sides and eastward towards Montgomery street. There was no wind; but almost all the houses were mere shells, ceiled and walled with cotton cloth papered or painted, and very inflammable. No fire department or fire company existed; and nothing at all effective to stop the flames was or could be done, except that the mayor and a few other vigorous men pulled down or blew up with gunpowder a number of the houses in the path of the conflagration and thus deprived it of materials to extend further. As it was, it consumed Dennison's Exchange and the Parker House and all the buildings but one on Kearny street between Clay and Washington, which on account of their high rents for gambling purposes were the most valuable in the city; and it also swept away all the buildings on the south side of Washington street between Kearny and Montgomery, and a number on Montgomery street. Altogether about fifty houses were destroyed and the loss was estimated at a million of dollars.¹

The loss made little or no difference. The ashes scarcely cooled before preparations were made to erect new buildings on the old sites. Localities that afforded such magnificently large rents could not be allowed to remain vacant. In a few days some places and within a few weeks the entire block was as

¹San Francisco Directory for 1852-3, by James M. Parker, San Francisco, 1852, 13; Lyman's Journal, &c., 137, 138.

densely covered with houses as it had been before. Unfortunately, though larger, the new houses were no more substantial than their predecessors and served little other use than to furnish fuel for the next conflagration or "Second Great Fire," which took place on Saturday, May 4, 1850. This one commenced at four o'clock in the morning in the United States Exchange, a drinking and gambling house, which had been built on the site of the old Dennison's Exchange. It spread with rapidity east, north and west, sweeping over and destroying the entire block between Kearny, Clay, Montgomery and Washington streets, with the exception of two houses, and the entire two blocks between Montgomery, Washington, Dupont and Jackson streets, with the exception of a few buildings on Jackson near Montgomery. Three hundred houses were destroyed and property valued at from three to four millions of dollars. The first fire had damaged the gamblers and speculators chiefly: the second one fell more severely on the merchants. As in the former case, a number of buildings were torn down or blown up with the object of staying the progress of the flames; and they appear to have been thus finally arrested. There were by this time a couple of fire companies, which had been organized after the first fire; but they were not yet effective and could do little good. One life was lost and several persons injured by the discharge of fire-arms left loaded in the burning houses. The number of idle spectators at this fire was perhaps not so great as at the former; but the police had quite as much difficulty in preventing pillage and preserving order; and this fact, together with other circumstances, led to the strong suspicion, if not moral certainty, that both fires were the work of incendiaries. Accordingly, a reward of five thousand dollars was offered by the mayor for their detection; and several persons were apprehended, but no sufficient evidence could be found against them; and they were discharged. On the day after the conflagration a party of laborers applied to the mayor for compensation on account of services alleged to have been rendered in fighting the flames; and, upon his denial of their employment and refusal to pay, they became noisy and threatened a riot. It is quite unlikely that the better class of citizens, in their then temper, would have suffered these men to proceed

much further; but they soon quieted down, dispersed and saved further trouble.¹

Again the work of rebuilding commenced as soon as the smouldering embers and ashes could be removed; and in a very few weeks the entire burnt district was covered with new buildings. They were, however, still no more substantial or fire-proof than before. The common council had done something by passing an ordinance punishing with fine not exceeding one hundred dollars every person who should refuse, in case of a conflagration, to assist in extinguishing the flames or in removing goods endangered to a place of safety; and another authorizing the mayor to contract for the digging of artesian wells and the immediate construction of cisterns or water reservoirs in various parts of the city, and still another requiring every householder to keep six water buckets always in readiness for use in case of future fires. But before either the wells or the cisterns or even the water buckets could be provided, the so-called "Third Great Fire" took place. It started on Friday, June 14, 1850, about eight o'clock in the morning in a bakery on the east side of Kearny street between Sacramento and Clay. The wind was high at the time, blowing towards the bay; and the flames, spreading rapidly on each side, swept the entire space, two full blocks in width, between California and Clay streets from Kearny to the water's edge, which was then between Montgomery and Sansome streets. Everything within this space was destroyed—the loss being about the same as that of the second fire or three hundred houses and three or four million dollars worth of property.²

It became plain at this fire, if it had not been so before, that the ordinary frame buildings, lined with cotton cloth and paper, of which most of the city had been built, were very unsafe; and that with such houses, in case of a fire while the usual winds were blowing, it would be next to impossible to stop it. For this reason, while most of the burnt district was being replaced with new frames, a number of brick buildings were started and

¹ Parker's San Francisco Directory, 15, 16; Annals of San Francisco, 274, 275.

² Parker's San Francisco Directory, 16; Annals of San Francisco, 277, 278.

particularly along the west side of Montgomery street between California and Jackson; and vigorous efforts were made to organize fire companies and carry on the construction of the wells and cisterns already ordered by the city authorities. While these were going forward, and great energy was being displayed in plans and preparations to meet and combat the destroying element in future conflicts, occurred the "Fourth Great Fire," which originated early on the morning of September 17, 1850, in the Philadelphia House, a drinking establishment on the north side of Jackson street between Kearny and Dupont. There was no wind; but all the buildings in that neighborhood were light frames, exceedingly dry; and the flames, upon getting a start amongst them, spread with amazing speed. There were no brick buildings or anything else to arrest their progress until they had swept over and destroyed almost everything in the space bounded by Montgomery, Washington, Dupont and Pacific streets. About one hundred and fifty houses were consumed and half a million dollars worth of property. Several smaller fires took place soon afterwards, one on October 31, 1850, when the building, known as the City Hospital, on Clay street near Powell, owned by Dr. Peter Smith and in which he took care of the city's indigent sick, was burned to the ground and many of the patients saved from the flames only by the most strenuous efforts of the firemen and citizens; and one on December 14, 1850, when several large store houses were destroyed on Sacramento street between Montgomery and Sansome, consuming goods estimated at about a million of dollars. The further spread of this conflagration in the rich and crowded district where it occurred was to a very great extent prevented by the firemen, who by that time were beginning to exhibit their great abilities to cope with fires under the most perilous circumstances.¹

But much the largest and most destructive of all the conflagrations that devastated San Francisco was that of May 4, 1851, usually known as the "Fifth Great Fire." Its ravages exceeded those of all the other fires that had taken place in

¹ Parker's San Francisco Directory, 17. 18; Annals of San Francisco, 290, 295, 299.

the city put together. It broke out about eleven o'clock on the night of Saturday, May 3, in the upholstery store of Baker & Messerver on the south side of Clay street opposite Portsmouth Square. A high wind was blowing from the west; and the flames, as soon as they got under way, spread with astonishing rapidity towards the bay. After a while the wind shifted to the south, carrying the flames northward as well as eastward; and increasing as they advanced, being supplied with blasts from the hollows under the planked streets which acted as great blow pipes, they raged and roared with fearful violence. Attempts to stop their progress were utterly powerless. All night the conflagration blazed; and the scene was said by those who witnessed it to have been grand beyond description. The reflection from it in the sky was said to have been visible at Monterey a hundred miles distant. In the morning the sun rose on a city in smoking ruins. The very heart of it, the center of trade and business, was eaten out, leaving little else but sparsely built outskirts. Immense quantities of valuable merchandise were destroyed. The burned district was three-quarters of a mile long by a quarter of a mile wide embracing sixteen entire blocks and portions of seven others. Besides taking the block where it originated between Clay, Dupont, Sacramento and Kearny streets and a portion of the next block south, it took five blocks between Kearny and Montgomery streets from Pine to Jackson, six between Montgomery and Sansome from Pine to Pacific and four between Sansome and Battery from California to Jackson, besides portions of six blocks along or near the water front between Jackson and Vallejo streets. Upwards of one thousand houses were consumed and property destroyed valued at from ten to twelve millions of dollars. Among the buildings burned were the new custom-house, a four-story brick structure, with porticoes and double flights of steps from story to story on the outside in front, on the northwest corner of Montgomery and California streets, the Union Hotel and Jenny Lind Theater on the former sites of Dennison's Exchange and the Parker House on Kearny street opposite Portsmouth Square, and the banking houses of Page, Bacon & Co. on the northwest corner of Montgomery and Clay, Burgoyne & Co. on the southwest corner of

Montgomery and Washington streets, and Wells & Co. on the southwest corner of Montgomery and Clay streets; also so much as was above mud and water of the old hulks Niantic, Apollo and General Harrison. The old adobe City Hotel on the southwest corner of Kearny and Clay streets also went. Of the buildings saved were the El Dorado and Veranda gambling houses on the opposite eastern corners of Kearny and Washington streets; five of the brick buildings on the west side of Montgomery street, including the banking houses of James King of William on the south corner of Commercial, that of Felix Argenti & Co. between Commercial and Clay and that of Henry M. Naglee on the south corner of Merchant, and ten or twelve in other localities. The firm of Dewitt & Harrison saved their warehouse, which was on the west side of Sansome street between Pacific and Broadway by knocking in the heads of barrels of vinegar and covering the building with blankets soaked in that liquid in place of water, which could not be obtained. It is said that eighty thousand gallons of vinegar were thus used; but they were well expended. A great number of valuable ships and other water craft in the bay was only saved by breaking up the wharves and thereby cutting off access of the flames to them.¹

Among other structures destroyed were several iron houses that had been imported and were supposed to be fire-proof. One of them was that of Taafe & McCahill on the northwest corner of Montgomery and Sacramento streets. Six men, relying upon its supposed safety, remained in it. When the flames approached and the men began to get uncomfortably hot, they found that the iron plates of which it was composed, though an inch thick, were so expanded and swollen that they could not open the doors or escape; and they perished of heat and suffocation. When the flames actually reached the plates, they curled up almost double; and the building collapsed and fell, destroying everything. Iron shutters, that had been placed on the doors and windows of some of the brick buildings saved, also acted very badly, expanding and swelling so with the heat that they

¹ Parker's San Francisco Directory, 18, 19; Annals of San Francisco, 329-332; 603-610; Hittell's San Francisco, 168, 169.

could not be opened. Twelve men were said to have remained shut up in Naglee's building during the fire and were nearly choked and roasted but survived. Several persons, including Adolphus C. Whitcomb, a prominent attorney, and his brother, attempted to stay in Wells & Co.'s building; and, though they managed to escape, both were much injured and the brother finally died of his hurts. Several others lost their lives in attempting to rush through the flames, the exact number of whom was never ascertained; and three men were crushed to death by the falling of a wall of the Delmonico Saloon on Montgomery street.¹

Almost the entire city had been destroyed; but there was no thought on the part of the people to feel discouraged or be cast down. The bay and the site upon it, the mines and their enormous yield still remained; and while they remained, nothing could long retard rebuilding and rapid progress. As in the previous cases of conflagration, preparations for new houses—and this time for much better ones than before—were started immediately, and before very long a new San Francisco rose from the ashes of the old one. And for some of the new buildings materials were brought from afar—such as granite from China, lava from the Sandwich Islands and bricks from the Atlantic states, England and Australia. Meanwhile the people, though thus active in restoring what had been destroyed, began to talk about the frequency of their losses from fires and the causes of them. It was rumored, and perhaps with good reason, that the recent conflagration had been the work of incendiaries; and it was even said threats had been made by the large criminal element, then present in the city, that there would be a general burning on the anniversary of the fire of May 4, 1850. Whether there was any truth in these rumors or not, it is certain that people believed them and the public mind, on account of the coincidences and the great losses sustained, became very much excited on the subject. It was reported that one man, charged with arson, had been beaten to death, while the fire was raging; but, if true, it had been only an act of private vengeance. Now

¹ Parker's San Francisco Directory, 18, 19; Hittell's San Francisco, 169; Mountains and Molehills, 176.

the matter became one of public concern. On June 3, an individual, named Benjamin Lewis, underwent an examination before the city criminal magistrate on a charge of arson; and so much interest was taken in the case that a crowd of between three and four thousand persons collected in the street and loud cries were made to "lynch the villain," to "hang the fire-raising wretch," to "have no more law's delays," to "hang him! hang him." Colonel Jonathan D. Stevenson harangued and encouraged the tumult while Charles J. Brenham, who had just been inducted into the office of mayor, endeavored to calm it. At length Samuel Brannan, being called for, proposed that the accused should be given to a volunteer police force of citizens; and, on being put to a vote, the motion was unanimously carried by the crowd; but when the prisoner was locked for it was found that the regular police had removed him, nobody knew or could tell where. A few days afterwards, June 9, as has already been stated, the vigilance committee of 1851 organized; and the action of the authorities in spiriting away Lewis had as much to do with it as any other single incident.¹

June 14, 1851, was the anniversary of the third great fire; and for days previous whispers were circulated that it was to be celebrated with another general burning. The organization of the vigilance committee, however, and the hanging of Jenkins on June 11 and, more than all, the strict watch that was kept may have had some effect in preventing a conflagration on that day. At any rate the anniversary came and passed; and people began to get careless again, when the so-called "Sixth Great Fire," and fortunately up to this time the last of the great fires, took place. This was on Sunday, June 22, 1851. It commenced in the morning about eleven o'clock in a house on Pacific street just below Powell. A gale of wind from the west was blowing at the time, which caught up the flames and drove them roaring before it and spreading on each side to the bay. Nearly everything was burned in the eight blocks between Jackson, Powell, Broadway and Montgomery streets; also in the three blocks between Washington, Stockton, Jackson and Montgomery streets and the block between Clay, Kearny, Washington and

¹ Annals of San Francisco, 339, 340; Hittell's San Francisco, 170.

Montgomery streets. Portions of blocks on the south side of Washington street on each side of Dupont and of blocks on the east side of Montgomery between Washington and Broadway were likewise destroyed. Four or five hundred houses and property valued at nearly three millions of dollars were consumed. Many of the houses were small wooden tenements; but some were of good quality that had just been rebuilt. Among the larger buildings were the city hall, formerly the Graham House, a four-story frame on the northwest corner of Kearny and Pacific streets, the Jenny Lind Theater, that had been rebuilt, on Kearny street opposite Portsmouth Square, and the First Presbyterian Church on the west side of Stockton street between Pacific and Broadway. The old adobe on Portsmouth Square, that had formerly served as a custom-house both for the Mexican government and afterwards for the American, succumbed. Fortunately the main business portion of the city, which had been burned seven weeks before, escaped on this occasion; but on the other hand houses that had escaped before now perished. In the fire of May 4, all the newspaper offices in the city were destroyed, except that of the *Alta California*: in the fire of June 22, the office of the *Alta California* was destroyed and no other. There were desperate efforts made by the firemen to stop the conflagration; and no doubt they accomplished a great deal; but nothing could stay the progress of the flames in the direct course of the wind. It was said seven persons lost their lives at this fire—three being burned, two shot by the police while in the act of robbery and two beaten to death by the populace on charges of incendiarism and theft.¹

But the recuperative energies of the people of San Francisco were marvelous. Again the burnt blocks were rapidly built up—and in many places with fine large brick houses, which were really fire-proof or at least have stood to this day. Their safety was apparently very fully tested on November 9, 1852, when a fire broke out on Kearny street opposite Portsmouth Square, the same spot where two of the great conflagrations had originated; and, if the buildings had been of the same character as those

¹Parker's *San Francisco Directory*, 19; *Annals of San Francisco*, 344, 345, 611-613.

previously burned, the loss would have doubtless been immense. But fortunately the flames were hemmed in by brick walls towards Washington and Montgomery streets; and comparatively little damage was done. Many other fires have occurred since, though none to compare with those enumerated. Afterwards for years people would refer back to and talk over the great fires as a wonderful experience; and individuals, who had been burned out several times, took a pride in relating with what elasticity they had risen superior to their misfortunes. Some had been entirely stripped four or five times. Dr. William Rabe, a very excitable man, who owned property on the south side of Clay street a few doors west of Montgomery and suffered several times, upon rebuilding, had the motto "Nil Desperandum" placed upon his house in large letters, which still remain; and he was always exceedingly flattered when called by the name of "Nil Desperandum." The city of San Francisco by its common council, upon adopting a design for a corporation seal on November 4, 1852,¹ chose that of a phoenix rising from the flames in front of the Golden Gate, with emblems of commerce on each side and the words "Seal of the City of San Francisco" around the margin. Afterwards, when a seal was adopted for the new consolidated city and county of San Francisco, though the main figures were a miner and a sailor and between them a shield on which was depicted a steamer entering the Golden Gate, with implements of commerce, agriculture and mining and a scroll containing the Spanish words "Oro en Paz, en Guerro Fierro—Gold in Peace, in War Iron," the phoenix was still retained and rose as a crest above the shield. And such is still, as indicated by the words around its margin, the "Seal of the City and County of San Francisco."²

¹ Corporation Manual of 1852, 83.

² Order of Board of Supervisors of San Francisco of March 1, 1859.

CHAPTER II.

CITY ADVANCE.

THE brick walls and more substantial structures of the new San Francisco, that began to arise in 1851, were not the only reason why the so-called great fires, that had for two years been devastating the city, suddenly stopped. These ramparts would have been of little avail, in case of a high wind and a good start of the flames, if it had not been for the fire department, which defended and protected them. This remarkable organization consisted of many of the best men in the country. They were all young, intelligent, ambitious and enterprising and in the very highest vigor of manhood. Owing to the repeated losses that had been sustained, and the credit and consideration to which a persistent and particularly a successful conflict with the devouring element not only entitled but actually elevated a man, it was an honor to be a fireman. They were volunteers who gave their services gratuitously, not paid stipendiaries. They were as proud of their red shirts and leather capes and painted hats as military men of their stripes and feathers and gold braid, and with much more reason.

It was on Christmas, 1849, the day after the first great fire, that the first steps were taken towards establishing a fire department. A meeting with that object in view, held on that day, was attended by a number of persons, who had been firemen in eastern cities, among whom were Frederick D. Kohler, David C. Broderick, George H. Hossefros, George W. Green, William McKibbin, John A. McGlynn and many others. In January, 1850, Frederick D. Kohler was appointed chief engineer and instructed to proceed at once with the organization of a suitable department. At that time there were only three fire engines in the city; but they were immediately brought into service; and

three companies formed to operate them, called respectively the San Francisco, the Empire and the Protection. These companies attempted to combat the second and third great fires in May and June, 1850; but they failed to effect any substantial benefit; and on the evening of the third great fire, June 14, 1850, a new meeting was held and measures taken to organize new and more effective companies. And as the result of the action thus initiated, an ordinance was passed by the common council of the city on July 1, 1850, for the regular organization of the department. According to its terms, the government of the department was intrusted to a chief engineer and his assistants and a board of delegates to consist of two representatives from each company, elected by the members of the companies respectively. Appropriations were at the same time made for the construction of cisterns and the purchase of fire apparatus. The first election under this ordinance was held in September, 1850, and resulted in the choice of Kohler as chief engineer; and the companies enrolled and which participated in the election were the Empire, the Protection, the Eureka, the Howard, the Monumental and the California engine companies and the St. Francis, the Howard and the Sansome hook and ladder companies.¹

The fourth, fifth and sixth great fires of September, 1850, and May and June, 1851, respectively called for the utmost exertions of the department; but it proved on each occasion unequal to the task. The main reason was the want of water. The cisterns that had been constructed were small and speedily exhausted. The chief thing to be done was to remedy this deficiency; and the remedying of this deficiency was a matter for the common council and not for the fire department. In August, 1851, Kohler retired from his position as chief engineer and one of his assistants served in his place until November 3, 1851, when Franklin E. R. Whitney was elected chief engineer. Within two weeks after his election, however, Whitney, on account of failure of health, was compelled to resign; and on December 6, 1851, George H. Hossefros was elected to the office, which he filled with great success and complete satisfaction to the public as well as to the department. It was under his administration

¹ Annals of San Francisco, 615-617.

and generalship that the fire fiend was first conquered on November 9, 1852; and to a great extent it may be said of him, as has been said of more than one fortunate military chieftain, that he organized success. Neither in his time nor since have the flames ever got so far beyond the control of the department as to cause what could be called a great fire. On December 6, 1852, Hossefros was re-elected; but unfortunately before the end of the year other business called him temporarily to the eastern states and, to the regret of the community, he resigned. On December 5, 1853, Charles P. Duane, an individual of lower instincts but of great activity, who was afterwards sent out of the country by the vigilance committee of 1856, was elected chief engineer; and the moral character of the department soon showed signs of deterioration. Some good citizens remained firemen; but most of them retired from active service; and their places were in many cases filled by persons who were no credit either to the department or to the city.¹

There were in what was ordinarily understood as the old volunteer fire department fourteen fire engine companies, three hook and ladder companies and several hose companies. The first was Broderick Engine Company No. 1, formerly Empire Company, one of the three original companies of 1849 but not regularly organized till June 4, 1850. The next was Manhattan Engine Company No. 2, organized in January, 1854, in place of the old Protection Company and its successor the Lady Washington Company, both which had been disbanded. Next was Howard Engine Company No. 3, organized June 14, 1850. Then came California Engine Company No. 4, organized October 10, 1850. Next Knickerbocker Engine Company No. 5, organized October 17, 1850. Monumental Engine Company No. 6, consisting at first of two companies, was organized in June, 1850, as an independent association, having three engines. It did not join the regular department until September, 1850, when it was received as three companies and was given the numbers 6, 7 and 8. In January, 1853, it resigned its number 8 and ran two companies known as No. 6 and No. 7; and in April, 1854, it consolidated its two companies into one, which was familiarly

¹Annals of San Francisco, 616-618; Hittell's San Francisco, 360.

known as "Big Six." Volunteer Engine Company No. 7, organized June 17, 1854, took the same number that had last been resigned by the Monuments. Pacific Engine Company No. 8, which took the number that had been first resigned by the Monuments, was organized on September 8, 1853. Vigilant Engine Company No. 9 organized February 22, 1852. Crescent Engine' Company No. 10, organized October 25, 1852, Columbian Engine Company No. 11, organized October 12, 1852, and Pennsylvania Engine Company No. 12, organized September 14, 1852, were all admitted into the department on November 4, 1852. Young America Engine Company No. 13 was organized February 7, 1854, and Tiger Engine Company No. 14 on February 22, 1855.¹ The hook and ladder companies of the department were the St. Francis Hook and Ladder Company No. 1, organized June 15, 1850, Lafayette Hook and Ladder Company No. 2, organized June 1, 1853, in place of the old Howard Hook and Ladder Company before mentioned, and Sansome Hook and Ladder Company No. 3, organized June 18, 1850. The last named company, which was one of the best organized in the city and had intrusted to its charge in the early days all the gunpowder intended for blowing up buildings in case of need, disbanded and went out of existence about the year 1860; and on April 1, 1863, a new company, called Independent Hook and Ladder Company No. 3, was organized. The hose companies were Washington Hose Company No. 1, organized August 10, 1860, Liberty Hose Company No. 2, organized February 2, 1861, and Eureka Hose Company No. 3, organized in 1863. Besides these companies, which formed constituent parts of the fire department, there were organized in 1863 and 1864 several independent companies. One was the West End Engine Company, another the South Park Hose Company, another the Hayes Valley Hose Company, and another the Rincon Hose Company. Such, together with what was known as the Exempt Fire Company, which was made up after 1857 of members of other companies who had served long enough to be entitled to certain exemptions, but had no vote in the fire

¹Annals of San Francisco, 618-623; Langley's San Francisco Directory for 1863-4, 539-542.

department as such, were the fire companies of San Francisco as they gradually grew up and as they existed in 1864 and up to 1866, when the volunteer system was abrogated and superseded by the paid fire department, which completely revolutionized the method of fighting fires.¹

Though some of the old companies at first furnished their own apparatus and even their houses, all that became members of the department received money from the city treasury for running expenses; and in the course of a few years the city paid all the expenses of every kind. There were in 1864 about nine hundred active members. All the engines, until steamers and horses began to be introduced, were worked by hand and, like the hook and ladder trucks and hose carts, also drawn by hand. The various engine houses were substantial buildings; and most of them, particularly in the earlier days, were provided with elegant furniture and fair libraries. While first-class citizens were proud of being firemen, the engine houses were popular places of social resort. They were scattered in different parts of the city so as to afford ready and prompt protection wherever a fire might start; but whenever an alarm was given on the bell of any one, the bells of the others followed with ear-piercing clamor all over the city; nearly everybody dropped his work and rushed into the street; those first on hand dragged out the engines, hook and ladder trucks and hose carts; the long ropes with which they were drawn were manned by willing hands; the foremen yelled through their hoarse trumpets; the men shouted mutual encouragement for higher speed; and away swept the noisy throng, wild with excitement and thundering over the sonorous planks to the scene of the conflagration. Arrived there, amidst an immense crowd of spectators, with the flames in front roaring through the burning buildings and leaping and flashing in broad sheets through the dense clouds of smoke, while timbers crashed and walls fell and great masses of burning shingles and blazing wood were carried up and tossed about in the hot air, the firemen, thoroughly aroused and eager for the conflict, rushed into the most dangerous positions with their hose, their axes, their hooks and ladders and when needed their

¹ Langley's San Francisco Directory of 1863-4, 542, 543; Stats. 1865-6, 138.

gunpowder. It was a desperate struggle and obstinately fought. Even in the day-time it was grand; at night the scene was terrific and sublime.¹

While the city was in so much danger and so frequently suffered and was so dependent upon the efficiency of the fire department, it was natural that the volunteer firemen should be regarded with peculiar favor. Every man, who was ambitious or wished to rise, unless his powers were exceptionally great, became a member of one or other of the companies. Each company had its characteristics, its pedigree so to speak, its record and its traditions. The Empires, Manhattans and Knickerbockers were New Yorkers, the Howards Bostonians, the Monumentals Baltimoreans, and so on. Every man had an affection for his company and took a pride in seeing his engine kept in the best of order, and brightly burnished and tastefully decked in ribbons on occasions of parade. No public procession or celebration could well take place without the firemen; and every company had its uniform, usually red-woolen shirts with black pantaloons, belts and leather hats; but there were sufficient variations to make a full turn-out of the department a not uninteresting sight. And long after the old department went out of existence, when on extraordinary occasions, as was sometimes the case, the remaining members of some of the old companies would re-assemble, man the ropes and drag their antiquated machines through the streets, they always attracted respectful and admiring attention. The new generation may have wondered how so much could have been accomplished with such apparatus and appliances; but, if it did so, it failed to take into sufficient account the men of the early days.

One of the first cares of the city government, next to making arrangements for a fire department, after its terrible experiences of the early conflagrations, was to provide a supply of water. There was no fresh water on the site of the city as it was incorporated in 1850 except that supplied by wells and a few small springs and trickling rills, one in a deep ravine near the present line of Sacramento street, one in the ravine near the present line of Seventh street coming down from the Hayes Valley region

¹Hittell's San Francisco, 171.

and one running into what was known as "Washerwoman's Lagoon" near Black Point. None of these supplies was reliable or convenient; and no practical use could be made of or dependence placed upon them. The nearest point from which fresh water in any quantity could be drawn was the little lake or pond near the Presidio, known as Mountain Lake; and on June 3, 1851, an ordinance passed the common council authorizing Azro D. Merrifield and assigns to bring in that water, giving him the right to lay down and maintain pipes and to charge certain rates for a term of twenty-five years, at the end of which time the works were to belong to the city; and in the meanwhile he was to gratuitously furnish water for extinguishing fires and certain other public purposes. Merrifield conveyed his franchise to an association, known as the Mountain Lake Water Company; and on July 14, 1852, a new ordinance passed the council recognizing the transfer, requiring the works to be completed by January 1, 1854, and fifty thousand dollars to be expended every six months until then, reducing the term of the franchise to twenty years but making it exclusive for five years, and providing for a forfeiture at any time after January 1, 1855, that the company should refuse or be unable to supply the city, at such elevation as the council might fix, with one million gallons of pure and fresh water every twenty-four hours.¹ In the meanwhile and until an adequate supply could be brought in by pipes, which was not until several years after January 1, 1855, and by another company, it was necessary to construct cisterns. The first appropriations for this purpose were made in July, 1850; and work was immediately commenced. Nearly every principal street crossing, except those that were over the waters of the bay, got a cistern. In 1858 there were sixty-one of them, usually of brick and cement but sometimes of wood, with a total capacity of about one million six hundred and fifty thousand gallons.² These cisterns had, until water was introduced by pipes, to be kept full by pumping from the bay. In 1864, which, however, was some years after the pipes were brought in, the City Water Works Company maintained two hundred and twenty-

¹ Annals of San Francisco, 341-343.

² Langley's San Francisco Directory of 1858, 364.

seven street hydrants and the Spring Valley Water Company one hundred and forty-five.¹

It did not follow, because many of the ordinances of the common council of 1850, such for example as most of those concerning the fire department and cognate subjects, were admirable enactments, that the common council itself was a very praiseworthy body. It was elected on May 1, 1850, in accordance with the terms of the charter; and on May 9 the two boards of aldermen held their first meetings in the new city hall, formerly the Graham House, which had been purchased a short time before. Their principal business on that occasion was to organize, appoint a few committees and receive a message from the mayor. That document was an interesting one, giving a summary of the condition of the city and a number of excellent suggestions; but one of its most important features was the financial exhibit contained in it, from which it appeared that the amount of money to which the city was entitled—being three installments on sales of water lots, the first of which was due April 3 and the last October 3, 1850—was a little over two hundred and thirty-eight thousand dollars; and that the liabilities, including the purchase of the new city hall, were less than two hundred thousand dollars, thus leaving over thirty-nine thousand dollars in favor of the city.² This was a good condition to start with; and it might doubtless have been maintained; but the members of the council were hardly warm in their seats before they commenced a course of recklessness and extravagance that soon crippled and came near bankrupting the corporation. One of their first operations was an ordinance, voting to the mayor, recorder and some other of the municipal officers annual salaries of ten thousand dollars each and to each of their sixteen selves an annual salary of six thousand dollars. As the aldermen were required to meet only two evenings a week, this, so far at least as they were concerned, was simply monstrous; and the people of the city at once rose and protested. There was much excitement on the subject; and several public indignation meetings were held. One, which took place on Portsmouth Square on the evening of June 5 and was

¹ San Francisco Municipal Reports for 1863-4, 190-201.

² Annals of San Francisco, 275.

the largest that had ever assembled in San Francisco, bringing together three or four thousand people, after some introductory discussion, adopted by acclamation a series of resolutions calling upon the mayor and common council to abandon their scheme of high salaries and remodel the schedule of oppressive taxation shadowed forth by their action, or to resign their offices and give place to more patriotic and efficient men. At the same time the meeting appointed a committee of twenty-five citizens to wait on the council, present the resolutions and request an answer.¹

The common council was not disposed to pay much attention to the complaints of the people but on the contrary, instead of answering the resolutions as requested, ordered them to lie indefinitely on the table. Upon this the people met again and, with greater indignation than before, reappointed their committee, gave it power to increase its members to five hundred and instructed it to present the old resolutions to the council over again and in such form as it should think fit. The committee, headed by Captain Joseph L. Folsom, accordingly increased its numbers and fixed on the evening of June 14 to march down in solemn procession to the council chambers in the city hall and present their grievances. But the third great fire, which occurred on that day, prevented the intended exhibition of popular will; and for a while further action on the subject was dropped. Some months afterwards, when the question was revived, the common council, having by that time found that it was not entirely safe to carry things with too high a hand, passed an ordinance materially reducing the salaries of the municipal officers and fixing their own at four thousand dollars. But this also was unsatisfactory; and Mayor Geary, who had taken the part of the people and opposed the payment of any salaries to the members of the council, in an able message, giving his reasons, vetoed the ordinance. The council in revenge not only passed the ordinance over the veto but for a long time refused to allow the mayor a salary.²

It was this same common council that later in the year voted to themselves each a gold medal worth one hundred and fifty

¹ Annals of San Francisco, 278, 279.

² Annals of San Francisco, 279-281.

dollars. The pretense seems to have been to furnish decorations for the celebration of the admission of the state into the Union, which had been fixed for October 29, 1850. The bauble itself was a large ornamented disk of gold, having on one side a lone star and a nugget of gold in the center, surrounded by the letters "Eureka" and with other stars and nuggets of gold around the rim, and on the other side the words "California admitted Sep. 9, 1850. Presented to — —, Member Board of Aldermen by the City of San Francisco, Oct. 19, 1850." It had an attachment by which it could be swung or fastened on the breast like a gewgaw of royalty. But as it happened these medals could not be manufactured in time for the celebration; and when they were finally procured the council had become so odious on account of its extravagance and disregard of the public interests, and so ridiculous on account of its votes on the subject, that, instead of asking the city to pay, the members themselves footed the bill and as soon as possible threw them into the melting pot and restored them to the condition of honest bullion.¹

Whether the council really imagined it could do as it pleased, without being amenable to the people who had placed it in power, or whether it simply did not care to do its duty may be unimportant; but, whatever may have been the case in that respect, it soon found that there was a limit not only to the harm it could occasion but also to its very existence. The burst of popular indignation it had provoked led to the adoption of an entirely new charter for San Francisco at the next or second session of the legislature. This new charter, which was passed on April 15, 1851, extended the limits of the city on the south to a line parallel with Clay street and two and a half miles south of the center of Portsmouth Square and on the west to a line parallel with Kearny street and two miles west of the same point. It provided for the same kind and number and variety of officers as the old charter, which it repealed; but it prevented or attempted to prevent all waste and extravagance and expressly declared that the members of the common council should receive no compensation for their services. In accordance with this new charter, an election was held on April 28, 1851; and, with one or two excep-

¹ Annals of San Francisco, 305-307.

tions, a complete new set of municipal officers was chosen with Charles J. Brenham at the head as mayor, Geary having declined renomination.¹

Meanwhile the filling in of the mud flats on beach-and-water lots, as they were called, continued and progressed rapidly. It will be recollected that General Kearny's decree of March 10, 1847, purporting to grant, convey and release to the town of San Francisco all the right, title and interest of the government of the United States and of the territory of California in and to the water front, excepting such lots as might be selected as reservations, provided that the property should be divided into lots and sold at public auction. A portion of the property was accordingly laid off into four hundred and forty-four lots, each forty-five feet and ten inches in front and width by one hundred and thirty-seven and a half feet in depth, and sold in July, 1847, and deeds therefor made by George Hyde, alcalde and chief magistrate. Afterwards in the latter part of 1849 a further survey of three hundred and twenty-eight beach-and-water lots of the same size as the others was made and the greater number of them were in like manner sold on January 3, 1850, and deeds therefor made by Alcalde John W. Geary. As a matter of law, this grant by Kearny and the sales that took place under it were invalid and void for several reasons, one of which was that Kearny had no power to make a grant. At the same time it had been decided by the supreme court of the United States and become the settled law of the land that real estate so situated belonged to the sovereign power by virtue of its sovereignty;² and as California, when it was admitted into the Union, became a sovereign state, equal to any of the original sovereign states, the ownership of these lands, not being otherwise legally disposed of, passed from the United States to the state as an attribute of its sovereignty.

Such being the case, it obviously became necessary, in order to acquire a good title to any of the beach-and-water lots, to procure the state's title thereto. But on the other hand, as the purchasers at the town sales of July, 1847, and January, 1850, had purchased in good faith, they clearly had equities that ought to

¹ Annals of San Francisco, 281, 325, 326.

² Pollard's Lessee *vs.* Hagan, 3 Howard's (U. S.) Reports, 212.

be recognized. Under these circumstances the state legislature on March 26, 1851, when it came to deal with the property and all the other beach-and-water lot property included within the charter lines of the city as established by the charter of April 15, 1850, and granted the use and occupation of the same to the city of San Francisco for the term of ninety-nine years, it expressly excepted all lots sold in accordance with the terms of Kearny's grant and all lots sold or granted by any alcalde and confirmed by the ayuntamiento or town or city council and properly recorded; and of all such excepted lots it granted and relinquished the use and occupation for ninety-nine years to the purchasers or grantees or their successors in interest. And to strengthen the titles of such purchasers and grantees still more, it provided that alcalde grants or, in case of loss, properly certified copies thereof should be *prima facie* evidence of title and right to the possession of such lots.¹

By the same beach-and-water lot act of March 26, 1851, just mentioned, a permanent water front of the city of San Francisco was established; and maps were ordered to be prepared and deposited in various public offices, delineating this boundary by a red line. Such maps were soon afterwards prepared and filed by William M. Eddy, county surveyor of San Francisco; and in the subsequent frequent attempts by speculators, gubernatorial and legislative as well as lobby, to extend the water front and in the numerous controversies and litigation that followed in reference to the subject, the "red line" and the "red line maps," though they merely followed the description of the beach and water lot act, became famous. But while the permanent water front line, which still remains, was thus established, the state by the same act of March 26, 1851, reserved the right to regulate the construction of wharves or other improvements so that they should not interfere with the shipping and commercial interests of the bay and harbor. On May 1, 1851, little more than a month after the passage of the beach-and-water lot act, the legislature passed another act empowering the city of San Francisco to construct wharves at the ends of all the streets connecting with the bay by extending such streets not exceeding

¹Stats. 1851, 307; Hittell's Gen. Laws, 4227.

two hundred yards beyond the water front or red line and authorizing the city to prescribe rates of wharfage to be collected on such wharves. In a second section of the same act, the legislature assumed to relinquish to the city all the right of the state to the beach-and-water lot property or, in other words, to the residuary interest after the ninety-nine years' term; but only upon the express condition that the city should confirm the titles to all lots within the limits of the Kearny grant that had been disposed of by any justice of the peace. The effect of this portion of the act, which on account of the name of the person who introduced it was known as the "Thorne bill," would have been to confirm a number of very unpopular and obnoxious conveyances known as Colton grants. And this effect seemed so apparent that a facetious and sarcastic member of the assembly, while the bill was still pending, moved to amend by calling it a bill for the relief of Colton grantees.¹

The origin of these grants was the appointment about December, 1849, by Horace Hawes as prefect, of an individual named G. Q. Colton as one of the justices of the peace of San Francisco for the ostensible purpose of aiding in the administration of justice. But no sooner had Colton been commissioned than, entirely neglecting his judicial functions, he assumed the right, which had been exercised under the old Mexican government by justices of the peace, of selling lands and proceeded to make grants to whoever would accept them at the rate of one hundred dollars for lots that were worth from two to five thousand. Not one dollar of the money received by him ever reached the city treasury; but all was shipped off to the Atlantic states, whither Colton in a few weeks—for his work was all done in a fortnight—followed to enjoy his ill-gotten gains. The ayuntamiento at a meeting on December 21, 1849, upon receiving information of these facts, adopted a resolution directing the city attorney to institute legal proceedings against Colton to restrain him from his illegal and unwarrantable practices and to punish him for his misdemeanor and malfeasance in office; and at a subsequent meeting on December 24, 1849, it adopted a resolution that all of Colton's grants were void and of no effect on the ground that

¹Journal of the California Legislature of 1851, 1745.

they were entirely unauthorized and had been illegally made. Among the property thus granted by Colton—and there was hardly any part of the city that he did not lay his hands on—were some fifty-three beach-and-water lots within the Kearny grant, worth at the time at least two hundred thousand dollars.¹ Under the circumstances the popular feeling against the Colton grants was very decided; and when the attempt to saddle them upon the city by the passage of the act of May 1, 1851, became generally known, there was great public indignation. Though the holders of the grants struggled to retain the advantage the legislature had given them and managed to get through the common council an ordinance accepting the conditions of the statute, it was vetoed by Mayor Stephen R. Harris; and afterwards on March 12, 1853, the statute was repealed by the legislature, without ever having been accepted by the city; and the Colton-grant incubus was finally removed.²

On account of the fixing, as has been stated, of a permanent water front by the beach-and-water lot act of March 26, 1851, and on account also of the confirmation thereby of the town sales and alcalde grants that had been made, the beach-and-water lots became favorite property for investment. Though the Colton shadow still rested on them and there were various serious questions that might be asked, their title was at least better than that of any other property in the city; and, as confidence in them increased, more and more money and labor were expended in filling them up and improving them. The first filling in of a water lot, as has been seen, was done by Captain Joseph L. Folsom on California street west of the site of the present Bank of California, and the work was very expensive; but as the improvement turned out to be a good investment, the example was followed by others; and, as the streets and houses built on piles advanced out towards the water front, the filling in and permanent improvement of lots rapidly followed. Fortunately most of the multitudinous hills and ridges between Telegraph Hill and the Rincon and from the Rincon out towards

¹Minutes of Commissioners of Funded Debt, June 2, 1851; Assembly Journal, 1852, 294-307

²Stats., 1853, 36.

Hayes Valley were composed of loose sand and easily graded. In 1850, under the pressure of the necessity for street improvements after the terrible experiences of the previous winter, grades had been established for Montgomery street between Pine and Pacific, Kearny between Sutter and Pacific, Dupont between Clay and Broadway, Stockton between Clay and North Beach; and most of these streets and the cross streets were graded and laid with planks, three or four inches thick, of Oregon fir. Such streets, though not permanent, lasted for several years and answered a good temporary purpose. The grades of the streets next the water were unfortunately much too low, for the reason that when the mud flats came to be filled in there was not sufficient fall from these streets to the water front line; and to this day, though some changes have been made and some grades raised, the difficulties of bad drainage and poor sewerage in that part of the city still remain.¹

Most of the first filling in was done by ordinary labor, with horses and wagons or carts, and was very slow and expensive work. But as the demand increased, improvements were introduced. One of the first of these was to lay a track and use cars, which in favorable localities ran down loaded from the sand hill excavated to the lot to be filled in by their own weight and were pulled back, after unloading, by horses. In 1852 James Cunningham introduced what was called the steam-paddy, which was an immense shovel, constructed and operated like a dredger, that would scoop up at a single dig about a cubic yard of sand, weighing a ton and a half, then swing it around and drop it in the car to be loaded. About the same time locomotives were made use of to draw the sand-cars, long trains of which with their rattle and shrill signals for years contributed their share to the city noises. It was said that on some days over two thousand tons of sand were moved; and at one time two steam-paddies were employed. As to the amount of work done, it is difficult to ascertain with certainty; but there is scarcely any part of the city within the old charter lines of 1851 that remains at its old level and it may not be far out of the way to estimate that at

¹ Hittell's San Francisco, 165, 435.

least three thousand acres were either raised or lowered an average of nine feet.¹

When the original grades of Montgomery and other streets next the waters of the bay were fixed in 1850, it was done without knowledge that the mud flats would have to be filled in, and perhaps without study of the topography or regard for the future interests of the place. Those grades were not more than a few feet above high-water mark; but they were high enough for the water front as it then existed. When, however, the red line was established, more than a thousand feet east of the old shore, and particularly when the filling in of lots commenced, it was found necessary to raise those grades and the necessary changes thus occasioned involved to more or less extent changes in the streets back of them. After much discussion and some difficulty, the common council on May 12, 1853, employed Milo Hoadley and William P. Humphreys to establish a system of grades and on June 20 and August 29, 1853, adopted their recommendations, fixing upon Drumm street, five feet above extreme high tide, as the base and raising the lowest parts of Montgomery street between Clay and Jackson to six feet above base.² The new grades, which embraced all the city east of Larkin and Ninth streets, imposed much expense on some of the property holders, who were obliged to raise their buildings besides being assessed for the alterations in the streets. Many of the buildings that had to be raised were of brick—some placed the number at nine hundred—and in some cases, where the structures were very large, resort had to be had to a series of hydraulic pumps, placed underneath the walls at regular distances and uniformly supplied with the same amount of lifting power. The new grades also required very deep cutting on some of the hills—from one hundred and thirty to two hundred feet in some localities—and on these as well as other accounts there was much dissatisfaction; and various attempts were made to change them and in fact to alter the system. But, though a few changes have taken place and some deep cuts have not yet been completed, the Hoadley

¹ Hittell's San Francisco, 434, 438.

² Ordinances and Resolutions, San Francisco, 1853-4, 60, 69, 135.

and Humphreys grades in general, as adopted in 1853, are still adhered to.¹

While these extensive changes were going on in respect to the levels of the streets and adjoining property, the city was advancing in population and material prosperity with astonishing strides. The number of inhabitants at the beginning of 1849 was about two thousand; two months later it was three thousand, and four months later, or in July, 1849, it was about five thousand. During these six months about ten thousand immigrants landed at San Francisco, most of whom came from Mexico, Chili and other countries on the Pacific coast. The next six months or latter half of 1849 yielded an average of about four thousand immigrants who came by sea per month, or about twenty-five thousand altogether, most of whom were from the Atlantic states. Though nearly everybody visited the mines, many returned; and many of those who came across the plains reached and settled in San Francisco, whose population, though subject to fluctuations, was constantly increasing; and at the end of 1849 it was said to have been from twenty to twenty-five thousand.² The number of vessels that arrived in the course of 1849, as has been seen, was five hundred and forty-nine.³ The buildings of the same year were numerous, but with few exceptions were flimsy and unsubstantial, little better than food for fire, which they shortly became. In the year 1850 the number of persons who arrived by sea at San Francisco was about thirty-six thousand, while the overland immigration was also large. But by this time the return tide had commenced and many of the adventurers, who had made money, started back to revisit their old homes; and on this account, though the regular population of the city continued to increase, it probably did not at the end of 1850 exceed thirty thousand. Meanwhile the character of the houses, as new ones were being erected after the fires of that year, improved; but they were still not so good as they ought to have been and they were next year succeeded by better ones. In the same year 1850, six hundred and fifty-six sea-going vessels arrived

¹ Hittell's *San Francisco*, 435-438; *Annals of San Francisco*, 327, 355.

² *Annals of San Francisco*, 226, 243, 244.

³ Hittell's *San Francisco*, 139.

and were discharged, of which five hundred and ninety-eight were American and fifty-eight of different foreign countries. The immigration in 1851 was not so numerous as it had been in 1849 or 1850. Only about twenty-seven thousand persons arrived by sea; and the population of San Francisco was not much larger at the end of that year than it had been at the end of the previous one. There were on October 31, 1851, four hundred and fifty-one vessels lying in the harbor; but many of them had been lying there for one or two years and were destined never to plow the salt seas again.¹ But in 1852 the number of immigrants arriving at San Francisco by sea ran up to sixty-seven thousand, while the departures amounted to only about twenty-three thousand, leaving a surplus for the year of forty-four thousand in favor of California. At least one-fourth of this excess settled in San Francisco; and the most valuable portion of it consisted of a large number of reputable women, who carried forward the great work of establishing permanent family homes, that had been barely commenced in the previous years.²

The commerce of the port kept pace with or rather drew after it the progress in population and material development of the city and, for that matter, of the state. In 1848 goods were imported to the value of about one million of dollars and coin to the amount of another million; and in the course of the same year there was exported about two million dollars worth of gold-dust.³ There seem to be no reliable figures for the imports of 1849, 1850, 1851 and 1852; but the amounts were very large. The amount of treasure shipped from San Francisco in 1849 was about five millions; in 1850 upwards of twenty-seven millions; in 1851 upwards of forty-two millions, and in 1852 upwards of forty-six millions. In 1853, which was the year of largest production of the early days, the amount of treasure shipped from San Francisco was upwards of fifty-seven millions or over a million a week. In 1854 the amount declined to fifty-one millions and in 1855 to forty-three millions, while in

¹ Annals of San Francisco, 355.

² Annals of San Francisco, 300, 302, 357, 411.

³ Annals of San Francisco, 208.

1856 and 1857 it stood at about forty-eight and a half millions. The value of the imports of the last half of 1853 was upwards of five millions; that of 1854 nearly six millions; that of 1855 seven millions, and those of 1856 and 1857 upwards of nine millions each.¹

¹State Register for 1859, 113, 115.

CHAPTER III.

OLD CITY DEBTS AND LAND SALES.

IT was not without incurring vast debts and involving itself in heavy obligations that San Francisco thus leaped, as it were, from an inconsiderable village into a large and imposing cosmopolitan city. Its expenses, even at fair and honest rates, would have been very large; but the fact that, owing to official mismanagement, it had to pay for nearly everything it purchased two or three times more than ordinary prices and the further fact that it was fleeced and preyed upon in almost every quarter of its administration, made these expenses exceedingly onerous. In August, 1849, Alcalde Geary in his inaugural message to the ayuntamiento said that there was not a dollar in the treasury. While there was reason to believe the municipality was greatly in debt, yet there was neither office for the magistracy nor any other public edifice. There was not a single police officer or watchman; no means of confining a prisoner for an hour; no place to shelter indigent persons in sickness or bury them when dead; and in short no single requisite necessary for the promotion of prosperity, for the protection of property or for the maintenance of order. At the same time he said that there was perhaps no city upon the earth where a tax for the support of the municipal government could be more justly imposed, for the reason that real estate, both improved and unimproved, had within a short space of time increased in value in many instances a thousand fold and even at those high rates produced in the shape of rents the largest average income upon record. He therefore recommended the ascertainment with all convenient dispatch of the amount of funds necessary for the support of an efficient municipal government for one year and thereupon the imposition and collection of the same by way of a just and equit-

able tax upon real estate; a tax upon auction sales; licenses, proportionate to the quantity of merchandise vended, upon merchants, traders and storekeepers for the transaction of their business; also a license upon drays, lighters and boats used for the transportation of merchandise or passengers to and from vessels in the harbor; and lastly a tax or license upon gaming and billiard tables.¹

One of the first appropriations of money, made by the ayuntamiento after this message, was in the autumn of 1849 for the purchase and conversion into a municipal prison of the brig Euphemia, as already mentioned. The next large purchase was that of the Graham House at the price of one hundred and fifty thousand dollars for a new city hall. In the meanwhile various other municipal debts, such as for street work and other public improvements, had been incurred; and on May 9, 1850, Geary, who had been first alcalde and was then first mayor of San Francisco, in the course of his inaugural message as such mayor, stated the liabilities of the city, including the purchase of the new city hall, at very nearly two hundred thousand dollars. He also at the same time stated the assets of the city to consist of the second, third and fourth installments on the sales of beach-and-water lots that had taken place on January 3, 1850—one for a little over twenty-three thousand dollars due April 3, 1850, and the other two for a little over one hundred and seven thousand six hundred dollars each, one due on July 3, 1850, and the other on October 3, 1850—the three aggregating a little over two hundred and thirty-eight thousand two hundred and fifty dollars or a little over thirty-nine thousand dollars in excess of liabilities.² These sales, it will be recollectcd, though void at the time, were afterwards validated by the beach-and-water lot act passed by the legislature of the state on March 26, 1851. Up to about that time almost the entire support of the municipality had been derived from sales of municipal lands. It very early claimed that the municipality was legally what was technically known under the Spanish and Mexican laws as a *pueblo*, something like the *pueblos* or towns of San José and Los Angeles,

¹ Annals of San Francisco, 230.

² Annals of San Francisco, 233, 264, 275, 276.

and entitled, like them, to hold in trust for its inhabitants four square leagues or about eighteen thousand acres of the public domain, with the right to dispose of the same for public benefit. Under this claim—though the facts upon which it rested were very vague and unsatisfactory and the reasoning upon them flimsy—the old alcaldes and justices of the peace made various grants of lots. The first of these, as has been seen, was of a one-hundred-vara lot near what is now the corner of Dupont and Clay streets to William A. Richardson. It was formally issued on June 1, 1836, by José Joaquin Estudillo, the first alcalde, representing the ayuntamiento of San Francisco. The next grant for an adjoining one-hundred-vara lot was made by the same to Jacob P. Leese on July 8, 1836. There were altogether, up to July 7, 1846, about seventy-eight grants by alcaldes or justices of the peace—some for one-hundred-vara lots and some for fifty-vara lots, in what is now San Francisco, that were afterwards held valid. Besides these, which seem to have been based upon the supposition that there was a pueblo, there were a number of grants by governor or prefect within the present territory of San Francisco, made apparently without reference to or recognition of any pueblo. Among these was a grant of the Rancho Laguna de la Merced, consisting of about one-half a square league at Lake Merced, made by Governor José Castro to José Antonio Galindo on September 23, 1835; one of four hundred varas square in the level ground northwest of the Mission Dolores made on November 30, 1836, by Governor Gutierrez to Francisco Guerrero; one of one hundred varas square, called Ojo de Agua de Figueroa, near the Presidio, by Prefect José Castro to Apolonario Miranda in November, 1838; one of a hundred-vara lot in Yerba Buena to Salvador Vallejo and Jacob P. Leese dated May 21, 1839, made by Governor Alvarado; one of the Rancho Las Salinas y Potrero Viejo, consisting of about one square league on the bay shore, including Hunter's Point, made by acting Governor Manuel Jimeno Casarin to Cornelio Bernal on October 10, 1839; one of three hundred varas square, called Camaritas, constituting what was formerly known as "The Willows" in the depression southeast of the Mission Dolores, by Governor Alvarado to José de Jesus

Noe on January 21, 1840; one of the Rancho La Cañada de Guadalupe, la Visitacion y Rodeo Viejo, consisting of about two square leagues south of the Bernal Rancho, made by Governor Alvarado to Jacob P. Leese on July 31, 1841; one of the Rancho San Miguel, consisting of one square league west of the Mission Dolores, by Governor Pio Pico to José de Jesus Noe on December 23, 1845.¹

In November, 1846, after the American occupation, Washington A. Bartlett, who had been appointed alcalde of Yerba Buena by Captain John B. Montgomery of the sloop-of-war Portsmouth, assuming that he had the same powers as a Mexican alcalde, began making alcalde grants. His first or among his first grants were, one of a fifty-vara lot to Captain John B. Montgomery and one of a fifty-vara lot to William P. Reynolds, both made on November 16, 1846. These were followed by a great many other grants made by himself and by his successors in office Hyde, Bryant, Leavenworth and Geary. According to the old surveys previous to 1850, there were fifteen hundred and thirty-two fifty-vara lots of the fifty-vara survey north of Market and east of Larkin street, and three hundred and forty-one one-hundred-vara lots of the one-hundred-vara survey south of Market street, besides the seven hundred and seventy-two beach-and-water lots of what had originally been mud flats. Nearly all these fifty-vara and one-hundred-vara lots, and in addition thereto some twenty-six one-hundred-vara lots, lying adjacent to the lagoon near Black Point and west of Larkin street, were sold previous to the adoption of the city charter of April 15, 1850, either by the alcaldes alone under their claim of authority above mentioned or at public town sales made by order of the ayuntamiento. These town sales appear to have been a novelty, entirely unknown to the old Mexican law. Under that system no confirmation by the ayuntamiento was required; and neither Bartlett nor Hyde ever thought of asking for confirmation of their grants. But in October, 1848, Leavenworth, whose administration was a stormy one, thought proper, in order doubtless to obtain the support of the ayuntamiento, to represent to it that he had made

¹ Dwinelle's Colonial History of San Francisco, Add., 325-327; Land Titles of San Francisco, by Alfred Wheeler, San Francisco, 1852, 24-27.

various grants of municipal land for the purpose of raising funds to defray the necessary expenses of the town and district; and the ayuntamiento, in response, adopted a resolution ratifying and confirming his grants.¹ Afterwards on August 17, 1849, a resolution was adopted by the ayuntamiento, at the request of the alcalde, prohibiting him from selling or disposing of any town or public land by grant or otherwise unless under special order of the council. At the same meeting one of the members gave notice that he would introduce a resolution to offer the public lands of the municipality for sale to the highest bidder; and on November 19, 1849, one hundred and eighty of the fifty-vara lots and twenty of the one-hundred-vara lots, not theretofore granted or disposed of, were sold at public auction under the direction of the alcalde.²

No sooner had the system of town sales at public auction by order of the ayuntamiento commenced than it was carried, to say the least, to very great lengths. The first sale took place, in accordance with the above mentioned resolution, on November 19, 1849; and on that same day the ayuntamiento adopted another resolution to the effect that an additional one hundred and eighty fifty-vara lots and thirty one-hundred-vara lots should be sold on December 28, 1849, upon the same conditions as the last sale. But that apparently was not selling off fast enough; and on December 1, 1849, it was ordained that two hundred fifty-vara town lots should be sold at public auction on the tenth of the same month; and on the tenth it was resolved that the alcalde should be authorized to grant to any and all applicants one-hundred-vara lots at the price of five hundred dollars and fifty-vara lots at the price of two hundred dollars each; and that such grants should be continued for thirty days from December 15, 1849. On December 21 it was resolved that legal proceedings should be instituted to restrain Colton, the justice of the peace who as before stated had illegally and unwarrantably assumed to sell and grant town lots, from further action and to punish him for misdemeanor and malfeasance in office in what he had done. On December 24, being apparently not yet satis-

¹ Wheeler's Land Titles, 20.

² Dwinelle's Colonial History of San Francisco, Add., 209.

fied with its previous action, it resolved that one hundred and fifty more town lots should be sold at public auction on January 20, 1850.¹

As a matter of fact neither of the sales thus resolved upon, after the one of December 10, 1849, took place. Before December 28, the day appointed for the next sale, the great fire of December 24 had occurred and business was for a few days substantially paralyzed. In the meanwhile the ayuntamiento, finding the community growing impatient at the manner in which the city property was being disposed of, had resolved to proceed against Alcalde Leavenworth for making illegal grants and, again taking up the Colton grants, declared them all void and of no effect. On January 2, 1850, it resolved to petition the governor for the suspension of Colton as justice of the peace and of Horace Hawes as prefect for appointing and supposed complicity with him. On the next day, January 3, took place the great sale of the beach-and-water property, consisting of four hundred and thirty-four lots, previously mentioned; and the prices bid amounted to the large sum of six hundred and thirty-five thousand one hundred and thirty dollars. By this time public dissatisfaction, increased by the danger of allowing so much money to go into unreliable hands, had reached a pitch that could no longer safely be ignored. On January 11, Hugh C. Murray, a member of the ayuntamiento, called attention to the fact that various derogatory reports and charges were in circulation against the ayuntamiento and certain of its members for improper expenditure and appropriation of public funds and asked for a committee of investigation. In response to his motion such a committee was accordingly appointed, consisting of himself, James S. Graham and Frank Turk; but it could hardly have been expected that it would ever report, and it certainly never did. If it had done so and squarely told the whole truth, the document would doubtless have created a stir and become a historical curiosity.²

¹ Dwinelle's Colonial History of San Francisco, Add., 209, 210.

² Minutes of the Proceedings of the Legislative Assembly, &c., and Records of the Proceedings of the Ayuntamiento or Town Council of San Francisco, &c., San Francisco, 1860, 103, 104, 111, 116.

The reports derogatory to members of the ayuntamiento and the charges of improper expenditure and appropriation of public funds, referred to by Murray, were made chiefly by Horace Hawes, who as prefect had the right or at least claimed the right, under the Mexican laws then in force, to exercise a sort of supervisory control over the ayuntamiento. Hawes was a remarkable man. He was born at Danby, New York, on July 10, 1813. His parents being very poor, he was early placed in charge of a neighbor to learn the trade of carpenter, cabinet-maker, house-painter and farmer. After working four years, he bought out the remainder of his term of apprenticeship; and at the age of sixteen, being extremely industrious, temperate and frugal and having managed to pick up the elements of an education, he succeeded in passing an examination as teacher in a public school. About the same time he made an arrangement with an attorney to read law in his office when not otherwise engaged; and, from that time on until admitted to the bar, he spent his time, as occasion and opportunity presented, in improving his mind, studying his chosen profession and teaching or working at his trade for his necessary expenses. A portion of this period he lived at the city of Utica, New York; but in 1837, he left that place and spent several years in teaching at different localities, after which he removed to Erie, Pennsylvania, where he commenced the practice of law and married his first wife. There his wife died in 1846, about eight months after marriage. On March 3, 1847, under the administration of President Polk, he received a commission, which was confirmed by the senate of the United States, as consul to the Society Islands and on June 15, 1847, sailed from Boston for those islands on a vessel bound by the way of Cape Horn to Honolulu. Arriving at that place, he took passage from there in a vessel named the Angola, which however after sailing changed its destination to California; and thus Hawes was brought to Monterey and San Francisco. After a stay of a few months in California he returned to Honolulu and thence proceeded to Tahiti, where he arrived in September, 1848; but, on account of the French occupation of that island, he was not recognized as consul until the next year. Meanwhile gold had been discovered in California and he returned to San

Francisco, where he settled down and resumed the practice of law. In July of that year he was appointed by popular voice as district attorney to prosecute the so-called "Hounds," which brought him into prominence. Meanwhile he had devoted himself with his accustomed industry and ability to the study of the Mexican jurisprudence and at the election of August 1, 1849, was chosen to fill the important position of prefect of the district of San Francisco. On August 11, he was sworn into office in presence of the ayuntamiento at its third meeting and delivered an inaugural address, in which he set forth what he considered the duties of the prefecture. On September 10, 1849, less than a month after his inauguration, instigated doubtless by his own views of the duties of his position and with a moral courage absolutely careless of the good will or favor of the ayuntamiento, he sent in a message vetoing an ordinance passed on August 27, 1849, for the purpose of raising revenue. He objected to it as unequal and unjust and calculated to produce more revenue than was required; and he justified his veto on the ground that the law required him to "cause the ayuntamiento to comply faithfully with their obligations and see that they do not exceed their authority."¹

At the next meeting of the ayuntamiento on September 12, 1849, the ordinance for revenue, without reference to the veto of Hawes, was referred to Governor Riley for his sanction; and a few days afterwards a communication was received from Captain Henry W. Halleck as secretary of state representing the governor, approving of a portion of the ordinance and reserving the remainder for further consideration; but at the same time expressing an opinion that the prefect had no power to veto ordinances passed by town councils. This, however, was merely the opinion of Riley, backed by Halleck, against that of Hawes; and probably no one, who knew the men and the value of their opinions on a question of law, but would have considered that of Hawes as entitled to at least equal respect to that of the others. However this may have been, the ayuntamiento, in view of the support thus given it by the governor, did not feel disposed to pay any attention to Hawes and afterwards refused, or at least

¹ Minutes of Proceedings of Legislative Assembly, &c., 60, 224-227.

neglected, to answer his demand for an account of the receipts and disbursements of municipal funds.

This demand for an account was made by Hawes on December 31, 1849. There being no response, and the large sale of January 3, 1850, having taken place, Hawes represented the facts to Governor Burnett, who had succeeded Governor Riley; and on February 15, 1850, Burnett as governor issued a proclamation suspending all further sales of municipal lands in San Francisco until further order or until the legislature should pass some act in reference to the subject. Hawes on February 19 transmitted the proclamation to the ayuntamiento; and the next day, by an additional communication, he called attention to the fact that it had not yet rendered to the prefecture an account of its administration of the municipal funds; requiring such account to be rendered by March 1, 1850, in order that it might be forwarded to the governor and published for the information of the people, and stating that no further delay could be allowed. On February 25, 1850, he presented another communication to the ayuntamiento requiring complete accounts as to all beach-and-water and town lots sold and all particulars in reference to such sales, especially as to the sales of beach-and-water lots made on January 3, 1850; as to how many lots had been purchased by members of the ayuntamiento, and as to how many members were interested in an appropriation of two hundred thousand dollars for building a wharf at the foot of California street or in the lots adjoining the proposed wharf.¹

Probably very few other men in California would have dared to do what Hawes thus did. He undoubtedly knew the consequences, in the form of ill-will and detraction, that he was about to incur in his attack upon the ayuntamiento and the prominent and influential citizens who composed it. But, notwithstanding all the abuse that was thus to be expected and that was in fact heaped upon him, he did not hesitate to pursue the path he had marked out for himself; and he pursued it with a courage and apparent rectitude of intention that entitle him to much greater credit and respect than he has ever yet received. Having thus made up his mind as to his course he on February 27, 1850,

¹ Minutes of Legislative Assembly, &c., 61, 62, 229, 230, 231.

addressed an official communication to the governor, stating that the ayuntamiento appeared to be determined to break loose from all the checks the law had established; that it evidently intended to proceed with the sale of municipal lands without rendering any account; that the state of affairs was exciting a high state of alarm in the public, and that it looked as if all that remained of the property of the city was about to be "swallowed up and dissipated as effectively as if it was sunk in the bottom of the sea." He added that it was for his excellency to determine what further order the exigencies required and he might be assured that they would be promptly carried into effect. The writer would cheerfully take that responsibility. Feeling assured that his excellency was determined to see the laws faithfully executed and insist upon political purity in the administration of affairs, he was endeavoring to develop all the material facts respecting the official conduct of the council and some other public functionaries. "I shall succeed, governor, if sustained," he said in conclusion, "I shall succeed; and your excellency and the public will be amazed at the result."¹

On March 1, 1850, after eleven o'clock at night, Hawes wrote again to the governor notifying him that, as he had anticipated, no account had been rendered by the ayuntamiento; and that, on the presumption that his excellency would be resolved to maintain his position previously taken, he desired instructions for his future guidance. He added that more lots had on that very day been advertised for sale; that there was no need of any more sales; that the market was depressed and further sales would be attended with immense sacrifice, and that a great anxiety existed in the community to know how the proceeds of sales already made had been or were being disposed of before any further realizations should pass into the same hands. In reply the governor, on March 4, said that he had directed the attorney-general to aid Hawes in an examination of the law for the purpose of compelling the ayuntamiento to render an account, restraining it from completing any sales made after the proclamation of February 15 or collecting money therefor, and setting aside all purchases made by any member of the ayuntamiento.

¹ Minutes, Legislative Assembly, &c., 232.

And he further recommended Hawes, in such proceedings as he and the attorney-general should deem requisite, to be as prompt and speedy as possible and leave no legal or fair means untried to bring the ayuntamiento to discharge their duty as the law required.¹

Meanwhile the ayuntamiento had formally resolved that the governor of California had no right to interfere in the sales of town lots and that such sales should take place on March 15, 1850. On March 8, E. J. C. Kewen, the attorney-general, in a communication addressed to the governor, took the ground—and it seems plainly to have been the proper one—that after the transfer of the sovereignty over California from Mexico to the United States, there could be no power under the Mexican law authorizing the alienation of American soil and that the easiest and quickest method of putting a stop to the action of the ayuntamiento was to issue against it a quo warranto requiring it to show upon what grounds it assumed to act. On March 15, the day fixed for the sale, Kewen wrote in substance that he had advised Hawes to exert the authority of his office to the utmost extent and that in the event of failing to accomplish the desired purpose he should without delay have proceeded with a writ of quo warranto; but that the ayuntamiento, fearful of an investigation and exposure, had yielded the field and the sale was indefinitely postponed. Though this proved correct, the quarrel, that had been provoked by Hawes to accomplish it, was by no means at an end. On March 15 he wrote and on March 18 he transmitted to the ayuntamiento and required to be recorded among the archives of the municipality a long list of lots purchased at the town sales of November 19 and 28 and December 10, 1849, and January 3, 1850, by members of the ayuntamiento or their business partners—from which it appeared that Samuel Brannan had purchased thirty lots; J. W. Osborn, his business partner, thirteen lots; Osborn & Brannan, as a firm, fourteen lots; William H. Davis three lots; Gabriel B. Post six lots; Talbot H. Green thirty-four lots, and Rodman M. Price eleven lots.²

This exposure, the force of which consisted in its truth, roused

¹ Minutes, Legislative Assembly, &c., 235.

² Minutes, Legislative Assembly, &c., 162, 164, 236-241.

the accused members. They could not deny Hawes' charges; but they attempted to blacken his character. Brannan was the first to open by a publication in the Pacific News of March 15, making insinuations against Hawes' integrity and especially intimating that he had advised the Colton grants, corruptly granted lands and accepted grants of land, and received fees for official services other than his regular salary. All these charges Hawes publicly and circumstantially denied. He acknowledged the right of the people to be informed in every matter concerning his official acts and set forth succinctly that he had had no connection whatever with the Colton grants; that he had never made a land grant or accepted or applied for any; that he had never received, either directly or indirectly, as much as a real for any official service aside from his regular salary, and that he had never disposed of any public funds or ever had a dollar of them in his hands.¹ The next to attempt to heap obloquy upon him was the individual who called himself Talbot H. Green, but whose real name was Paul Geddes. This was before he had been recognized as Geddes and while he was still posing as a man of honor and was in fact cutting a wide swath in public affairs. Instead of seeking the newspapers, however, he on March 18 introduced a resolution into the ayuntamiento instructing the city attorney to inquire into the truth of a series of accusations against Hawes similar to those intimated by Brannan and, if found true, to prefer charges against him before the governor. On March 26, Archibald C. Peachy, the city attorney, apparently without any investigation as to the truth of the charges thus suggested by the so-called Talbot H. Green, presented them as truths; and the ayuntamiento resolved that according to its solemn belief they were true and susceptible of proof; and at the same time it further resolved that a report of the financial condition of the city should be transmitted to the governor and that he should be asked to suspend Hawes from his office of prefect.²

Governor Burnett, notwithstanding his previous action, upon receiving the above mentioned communication from the ayun-

¹ Minutes, Legislative Assembly, &c., 241-243.

² Minutes, Legislative Assembly, &c., 177-179, 182-184.

tamiento, at once turned against Hawes and suspended him from office. At the same time he issued a proclamation to the effect that he had received from the ayuntamiento official reports of the finances of San Francisco from December 6, 1849, to March 4, 1850, and a list and account of the municipal lands sold from November 16, 1849, to March 4, 1850; that it appeared from these and other statements that more funds would be required to finish certain projected public improvements than could be raised from taxation and payments yet to become due on lots already sold, and that therefore he set aside his former order of February 15, 1850, suspending further sales. This new order, which was dated March 29, 1850, the same date as the suspension of Hawes, he transmitted addressed to Peter A. Brinsmade, who occupied the position of sub-prefect, requesting him to transmit a copy to the ayuntamiento. And he accompanied it with a special communication, informing Brinsmade of the suspension of Hawes and instructing him to exercise the functions of sub-prefect independent of Hawes' control and as such sub-prefect conduct the municipal election of April 1, 1850.¹

Brinsmade on April 6 replied to the governor that he had not until that day received his communications of March 29 for the reason that Alcalde Geary, through whom they were transmitted, had seen fit to break open the seals and publish the contents, and had not until then sent them to him. The executive order was of course, at that last hour of his official existence, of little or no practical application; and it might be quite unnecessary for him to give any intimation of his views as to its legal force or how far he might have considered it consistent with his own self-respect to have taken as a rule of his official conduct an order of such questionable authority—and particularly so after the example that had been afforded of the attempted displacement from office of a superior functionary who had with the assurance of executive support governed his official conduct by a plain and imperative rule of statute law. He might, however, be permitted to express his profound regret that, while he himself was acting faithfully under the law in requiring the ayuntamiento to render an account of its administration of the munici-

¹ Minutes, Legislative Assembly, &c., 189, 190.

pal funds, the salutary provisions of such law should be entirely set aside by the governor in receiving directly from that body, and in passing a favorable judgment upon, a statement of accounts, without any respect to the requisite previous examinations and remarks of the prefect. And in that feeling of regret, he could assure his excellency, the people of San Francisco very generally and strongly united.¹

In the meanwhile Hawes, whose trenchant pen doubtless had much to do with Brinsmade's letter, had prepared a series of charges for the impeachment of Burnett before the legislature. He accused him of plain and gross violation of the constitution of the state, of usurpation of powers denied him by the laws and of official duplicity. And in his specifications he set forth, among other things, that the governor had suspended him without good cause; that two of the members of the ayuntamiento, who preferred the charges upon which the order of suspension had issued—evidently referring to James S. Graham and Hugh C. Murray—had received an appropriation of one hundred and fifty thousand dollars from the ayuntamiento for the purchase of the Graham House; that other members—evidently referring to Samuel Brannan, Talbot H. Green, Rodman M. Price and others—had received about one hundred and twenty town lots; that they had appropriated three hundred thousand dollars to build a wharf, along the line of which they had illegally accepted grants of about fifty fifty-vara lots—of all which the prefect had disapproved, and that the governor knew all these facts and knew that the charges against Hawes were entirely false. He also accused the governor of violating the express provisions of law in receiving and approving accounts from the ayuntamiento, which had not passed through the regular channel of the prefecture, and thus setting at naught and practically destroying the salutary checks upon official misfeasance which the law provided and thereby sanctioning extraordinary expenditures not authorized by law; and he solemnly declared that each and all the facts so charged and specified were true and susceptible of proof.²

¹ Minutes, Legislative Assembly, &c., 244, 245.

² Journals of California Legislature, 1850, 1120.

Hawes transmitted his charges against the governor to the speaker of the assembly and asked from that body such action as a sense of their own dignity and that of the State of California might dictate; and he offered at any moment to bring forward the necessary witnesses, papers and documents to support his accusations. But John Bigler, the then speaker, upon presenting the charges on April 4, 1850, to the assembly, moved that they should be laid on the table; and, the motion having prevailed, they were never again called up. The ayuntamiento, on the other hand, having thus captured the governor, immediately resolved that all the beach-and-water lots, theretofore advertised, should be sold on April 20 and the proceeds appropriated to the building of wharves and the purchase of a city hall; that one hundred town lots recently surveyed should be leased on ground-rent for ninety-nine years and the proceeds appropriated to the support of common schools, and that one hundred and fifty town lots should be sold for the benefit of the municipality. It also approved, confirmed and ratified—so far as it could—all grants of municipal lots made by Geary as alcalde and chief magistrate while there was no organized town council, provided such grants should appear upon the public records. But as a matter of fact, there were no further sales at that time; and on May 3, 1850, the new officers under the first city charter having been elected and qualified, the ayuntamiento adjourned sine die and went out of existence.¹

After the supersession of the ayuntamiento and the adjournment of the legislature, little or nothing more of a public character was said about Hawes and his quarrel with that body and with the governor. Individuals, whom he had exposed and provoked, continued to talk abusively about him and especially about what was called his stinginess and parsimony; but no one could prove anything against his honesty or integrity. When the new common council, consisting of a board of aldermen and a board of assistant aldermen, as provided by the city charter of April 15, 1850, met and organized, the fact was recognized that nearly all the city property that was marketable had been squandered, as Hawes had charged; but that was about all that was done. At

¹ Minutes, Legislative Assembly, &c., 190, 191, 220, 246.

the first meeting of the new council on May 9, 1850, as has already been seen, Geary, the new mayor, stated the liabilities of the city to be about two hundred thousand dollars, but he claimed that the unpaid installments on the sale of beach-and-water lots, that had taken place on January 3, 1850, were more than sufficient to meet such liabilities.¹ The new council, with the usual zeal of a new board, found fault with everything that had been done; but, instead of making any improvement, it rendered affairs ten times worse than they were before by voting themselves large salaries and other extravagances already referred to. Thus the expense account of the city was continually increasing; and on August 23, 1850, as a sort of dernier resort, an ordinance was passed for the creation of the "sinking fund" stock. According to this project the controller was authorized to issue bonds not to exceed in the aggregate five hundred thousand dollars, payable in twelve, eighteen and twenty-four months and pledging all the real estate of the city as security for the redemption of the stock and interest thereon at the rate of two per cent per month, payable quarterly. The mayor and controller and three other persons, who were to be nominated by the mayor and approved by the common council, were to constitute a board of commissioners of the sinking fund; and they were to have charge of all the real estate belonging to the city, with power to lease or sell the same at public auction as they might deem advisable and as might be required to provide funds for the redemption of the debt. And after January 1, 1851, all licenses for taverns, drays, boats, places of public amusement and games of hazard or chance were to be turned over to the commissioners and applied in the same way. This ordinance was amended on October 1, 1850, increasing the amount of bonds to be issued to eight hundred thousand dollars and making it redeemable in three years, one-third in each year from date of issue.² And on December 25, 1850, the city made a conveyance in trust to the commissioners of the sinking fund of a large number of beach-and-water lots, including what were known as government reserves between Washington and Jackson streets and Pacific and Broadway streets and at Rincon

¹ *Annals of San Francisco*, 276.

² *Dwinelle's Colonial History*, Add., 189-192.

Point and also sixty-nine one-hundred-vara lots, one hundred and sixty-nine fifty-vara lots, the city hall property, and the wharves at the ends of Taylor, Broadway, Pacific, California and Market streets.¹

At the time of the execution of the above mentioned deed of December 25, 1850, the aggregate liabilities and indebtedness of the city of San Francisco, which Mayor Geary had on May 9, 1850, reported to be less than two hundred thousand dollars, had increased according to the same authority to over a million of dollars—and in fact to over a million and a half—a circumstance which showed very plainly that the common council was no improvement on the ayuntamiento and that there was even more need of a Hawes to keep it in order. According to the same authority, no claim was made at the date of the deed to any unpaid installments; but it appeared that the entire city property, exclusive of the government reserves, was not worth over three hundred and fifty thousand dollars; that the annual city revenue was not much more than three hundred thousand dollars or less than one-third of the indebtedness and in conclusion that the city was destitute of funds, unable to borrow money and unable to pay its debts. As a matter of fact, the ordinance creating the board of sinking fund commissioners and the deed conveying the city property to them were, as afterwards decided by the supreme court of the state in several cases, absolutely void for want of power in the city to pass the one or make the other; but, though these defects may not have been generally known, little or no harm was done for the reason that the commissioners failed to obtain any loan and never issued any bonds.²

Meanwhile the condition of affairs in San Francisco continued to attract great public attention; and the next or second session of the state legislature, which sat at San José from January 6 to May 1, 1851, was called upon to pass some very important acts in reference to them. The first was the statute of March 26, 1851, commonly known as the beach-and-water lot act, already mentioned, which granted all the beach-and-water lot property,

¹ Dwinelle's Colonial History, Add., 192-195.

² Smith *vs.* Morse, 2 Cal. 524; Thorne *vs.* San Francisco, 4 Cal. 148; Heydenfeldt *vs.* Hitchcock, 15 Cal. 514.

now recognized as exclusively state property, to the city or purchasers from alcaldes or at town sales, for the term of ninety-nine years, reserving the right of the state to regulate the construction of wharves. This act made alcalde grants *prima facie* evidence of title and possession and fixed the permanent water front of the city by the red line. The next was the act to re-incorporate the city or new charter, also already mentioned, passed April 15, 1851. This, among other things, expressly prohibited the commissioners of the sinking fund from disposing of any property belonging to the city.¹ On April 1, 1851, another act was passed preventing the city or any of its officers from selling or in any manner conveying or disposing of lands within its corporate limits.² And finally on May 1, 1851, it passed an act to fund the floating debt of the city and provide for the payment of the same. This statute appointed a board of commissioners of the funded debt of the city of San Francisco, consisting of five citizens, with power to issue certificates of stock to be known as "The San Francisco City Stock" for an amount equal to the aggregate of all the floating debt due or the consideration of which should have accrued on or before May 1, 1851,—such certificates to be evidences of indebtedness on the part of the city to the holders respectively for sums therein expressed, not less however than one hundred dollars and bearing interest at ten per cent per annum. The principal sums were to be redeemable within twenty years after date and the interest to be payable semi-annually in accordance with coupons to that effect attached to the certificates. It further provided that the commissioners should have power to exchange the certificates of stock or bonds to be issued with creditors of the city in extinguishment of an equal amount of the floating debt, and each year, previous to the making out of the general assessment list, they were to report to the city assessor the amount necessary to be raised for the payment of the current yearly interest and fifty thousand dollars in addition for the purpose of a sinking fund for the redemption of bonds. It was further provided that these

¹ Stats. 1851, 307.

² Stats. 1851, 357, 362.

³ Stats. 1851, 327, 328.

amounts so to be raised were to be paid over to the commissioners out of the first moneys assessed or collected; and that neither the common council nor any officer should have power to prevent or hinder the collection of such moneys; but on the contrary that any public officer violating any of the provisions of the act should be deemed guilty of a misdemeanor and liable to indictment and punishment therefor and that the district court, having civil jurisdiction in San Francisco, should have power to enforce obedience to the act by mandamus, distringas, sequestration and attachment. The commissioners also, in case of a balance in their hands that could not be used for the payment of interest or calling in and redemption of bonds or otherwise applied under the provisions of the act, were to have power to invest and re-invest the sums until it could be so used; and provision was also made for the keeping by them of regular books of account and minutes of all their proceedings and the making of regular reports for the information of the public. By the same act the old commissioners of the sinking fund were required to convey all property belonging to the city in their possession to the new commissioners of the funded debt, who were to sell or lease the same as the advantage of the city might require and apply the proceeds also to the liquidation of the floating debt; and all property of the city necessary to be retained for any municipal purpose was declared to be forever exempt from sale on execution.¹

The indebtedness of the city on May 1, 1851, at the passage of the funding act, was, as has been seen, over a million and a half of dollars. Some of it was properly incurred; but most was the result of extravagance or very bad management. Large sums had been voted away, not only for hospital, fire, police and other necessary purposes, including some street and wharf and public building expenses, but also for monstrous salaries and jobs of various kinds. The debt had been piling up with extraordinary rapidity for the reason principally that as the city, notwithstanding the numerous sales of municipal lots, did not have money sufficient to meet current expenses, it had resorted to the expedient of issuing certificates of indebtedness or "scrip," as they

¹Stats. 1851, 387.

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scrip, on account of the uncer-
tained, rapidly depreciated and at
five per cent discount. Under
ld purchase nothing nor procure
or three times its value, because
as worth only a half or a quarter
; act was passed and the bonds
nized as valuable securities and
appreciated and those far-seeing
intities purchased at low figures,
y converting them into bonds.
of the city, who still held their
ording to the report of the com-
urchased and bonds issued in
one million, six hundred and
d dollars.¹ A few persons, how-
ept these bonds, for the reason
a much larger amount of money
s left of the city property before
any reasonable possibility raise
s claimed or redeem in case of

duals, who became notorious on
inflicted upon the city, was Dr.
d a contract from the authorities
ake care of the indigent sick at
ar Powell for which he was to
the sum of four dollars per day
, having other use for the money
ad of paying Smith off in cash,
sidences of indebtedness or scrip.
three per cent per month till
is been stated, was burned on
time his bills and accumulated
e sums. On January 13, 1851,
on February 25, 1851, obtained

a judgment against the city for \$19,239 with interest at the rate of three per cent per month from the time of rendition. On the same January 13, 1851, Smith had commenced a second suit in which on March 4, 1851, he recovered judgment against the city for \$45,538, bearing interest at the like rate of three per cent per month from rendition; and on January 14, 1851, he commenced a third suit in which on September 6, 1851, he obtained judgment against the city for \$13,960 with like interest. Under each of these judgments large amounts of city property were sold; and there were also four other judgments, obtained by other persons about the same time, under which like sales were made, all of which were generally and popularly known as "Peter Smith sales." These latter judgments were: one against the city on January 14, 1851, in favor of James M. Morrow for \$2,328, bearing interest at the rate of three per cent per month; one on January 18, 1851, in favor of Gabriel Winter and Benjamin G. Latimer for \$3,075 with interest at the rate of ten per cent per annum; one on May 20, 1851, in favor of Samuel S. Morrison for \$2,477.42 with interest at ten per cent per annum, and the last on September 18, 1851, in favor of Jesse D. Carr for \$4,000 with like interest of ten per cent.¹

Executions were issued on these judgments soon after their entry respectively. The first sale was to take place on June 14, 1851, under Smith's second judgment; and the city property levied on and advertised to be sold consisted of one hundred and three beach-and-water lots, twenty-seven south beach blocks, and seven one-hundred-vara lots. An effort was made to procure an injunction against the proposed sale on the plea that the property advertised had been conveyed to the commissioners of the funded debt and the legal title was in them; but it was denied on the ground that a creditor of the city had a right to sell whatever interest the city might have in the property and that the sale could not interfere with any trust that might have been legally created. Upon this state of the case, several of the commissioners on behalf of the board attempted to effect a compromise and for this purpose called upon Smith's attorneys, and

¹ Wheeler's Land Titles, 96-107.

offered to guarantee to Smith from their own private fortunes the whole amount of his judgment, provided he would arrest the sale; but evidently something more was wanted and the offer was rejected. The commissioners thereupon issued an address to the public, notifying it of their own title and the city's want of title in the property and cautioning it against purchasing at the proposed sale. But notwithstanding this address, which was published in the newspapers and read to the people, the sale took place; every piece of property advertised was sold; and perhaps the only effect that the address had was to prevent competition at the sale and help the sacrifice of the property at ridiculously low rates. Among those who purchased for a mere song enough of the city property at this sale to make fortunes were Peter Smith himself, who bought forty-one beach-and-water lots, three south beach blocks and four one-hundred-vara lots, and David C. Broderick, who bought sixteen beach-and-water lots, two south beach blocks and one one-hundred-vara lot.¹

Subsequent sheriff's sales on one or other of the above mentioned judgments took place on July 8 and 11, August 12, September 18 and 19, November 10 and 26, 1851, and January 2 and 30, 1852. The last one, which was on Smith's third judgment, covered a very large amount of land, embracing about two thousand acres and including nearly everything the city could possibly lay any claim to within the limits of its charter line. Meanwhile, on account principally of the great value of the property sold for next to nothing, the influence of the purchasers and the uncertain character of the judges before whom the adjudication of the rights acquired thereby was to come, great alarm began to be felt. The community in general had taken the view of the commissioners of the funded debt and supposed that the sales were void and conferred no title; but in the course of a few months it was found that the courts were leaning the other way; and the commissioners as well as the people, who had the interests of the city at heart, became frightened and at the last moment, a sufficient amount of money having been raised by public-spirited citizens, an attempt was made by the

¹ Annals of San Francisco, 372-374; Wheeler's Land Titles, 99-101.

commissioners to redeem the property so sold. This property amounted in value, even at that time, to several millions of dollars; and, as the purchasers were evidently bent on a very large speculation, they refused to consent to its redemption. The result was much contention and ill-feeling and a number of law-suits, which on account of the immense interests at stake were conducted with great vigor and bitterness. Finally, after some years of litigation, it was determined that the Peter Smith sales carried the title to all the beach-and-water lots, wharves and city property below ordinary high-water mark that had been sold and not otherwise previously disposed of, and that the attempted redemption from the sales of January 30, 1852, was invalid for the reason that the commissioners of the funded debt were not authorized to redeem; but that none of the city or municipal property above ordinary high-water mark or, in other words, none of the property included within the so-called pueblo of San Francisco was affected.¹

Thus, though something was saved from the Peter Smith sales, a very large amount of the valuable property of the city below ordinary high-water mark was sacrificed and lost. Subsequently the commissioners of the funded debt sold most of what was left of the city property that had been conveyed to them; but the proceeds were not sufficient to wipe out much of the old city indebtedness or in other words redeem many of the bonds. Within the first ten years after their appointment, they redeemed only about one-sixth of the whole number; but in 1871, when the bonds matured, they were all paid off in full; and the commissioners turned over to the municipality a balance of over one hundred thousand dollars. By that time other expenditures, most of them as extravagant as the previous ones, had involved the city and its successor the consolidated city and county in other debts amounting to over three and a half millions of dollars, for which new funding acts were passed and new bonds were issued; and they too in time were all paid without a thought of repudiation. There were also, from time to time in the succeed-

¹ Wheeler's Land Titles, 96-107; Annals of San Francisco, 374-376; Smith *vs.* Morse, 2 Cal. 514; Thorne *vs.* San Francisco, 4 Cal. 127; Hart *vs.* Burnett, 15 Cal. 530.

ing years, numerous schemes in divers ways and by various devices to fleece the city and rob it and the honest portion of its citizens of their property. But there was never again anything to compare in magnitude and monstrosity with the schemes thus represented by and under the name of Peter Smith.¹

¹ San Francisco Municipal Reports of 1859-60, 162, 164; 1870-71, 37; 1871-72, —; Annals of San Francisco, 376, 377.

CHAPTER IV.

PROSPERITY OF 1853.

If San Francisco had not been one of the most active, most progressive and wealthiest cities for its size in the world, it never could have stood the strains and drains that were made upon it. But while it was on the one side being swept over by repeated conflagrations and on the other side being despoiled of large portions of its property by some of its own grasping and unscrupulous citizens, as has been seen, it still kept on growing and improving. By the middle of 1852 the state had a population of over two hundred and fifty thousand white inhabitants, of which number San Francisco had over thirty-six thousand or about one-seventh; but almost all the others were scattered in the mountains and remote corners; and, though Sacramento, Stockton, Marysville, San José, Los Angeles and a few other towns were energetic and prosperous, San Francisco was the metropolis and chief center, to which everybody had to go or send and with or through which all or very nearly all the business of the country and coast had to be done. Fortunately the mines continued to yield immense returns, those of 1852 amounting to fifty-nine millions of dollars or over a million every week. During the same year the arrivals of passengers at San Francisco numbered sixty-seven thousand and the departures twenty-three thousand; and, as all the clothing and supplies of every kind and nearly all the provisions used in the state had to be imported, the traffic was very large. San Francisco had suddenly risen to be one of the chief commercial emporiums of the United States and one of the most important on the globe.

As population came crowding in, embracing adventurers from almost every quarter of the earth, the city became genuinely cosmopolitan. All races were represented—English, Scotch, Irish,

French, German, Spanish, Italian, Greek, Turk, Russian, Swede, Syrian, Persian, Hindoo, Malay, Chinese, Japanese, Pacific Islander, Mexican, Central and South American and African, as well as the predominant American. Their various national dresses also were to be seen and their peculiar languages to be heard any and every day on the streets. The need of a circulating medium among such a great concourse of people and the low market value of gold-dust or bullion, in comparison with any kind of convenient and acceptable currency, also caused exceedingly large quantities of foreign coins to be brought into the country, which passed from hand to hand without much reference to their intrinsic worth. The standard, according to which articles were usually rated, was that of American dollars or Mexican pesos and Mexican reals or eighths of a dollar. When the foreign coin was introduced and for four or five years afterwards, any foreign silver coin about the size of a dollar, such as a French five-franc piece, though worth much less, was counted and passed for a dollar. An Indian rupee in the same manner passed for a half-dollar and an English shilling for a quarter-dollar, usually called "two bits." No coin less than an eighth of a dollar or real or "bit," as it was commonly designated, was regarded or recognized; but an American dime or an English sixpence or French half franc passed for a bit. As for gold coins, there were comparatively few and of less variety, the most numerous being English sovereigns; but within a year or two after the gold discovery, commencing with 1849, a number of assay offices, said to amount to fourteen up to 1851, issued private coins. Among the most plentiful of these private coins were perhaps the five and ten dollar pieces of "Moffat & Co." bearing date in 1849 and 1850, the five, ten and twenty dollar pieces of "Baldwin & Co." bearing date in 1850 and 1851; the five and ten dollar pieces of "Dubosq & Co." bearing date in 1850, and the five dollar pieces of "Shultz & Co." and "Dunbar & Co." of 1851. In 1850 Frederick D. Kohler, who had been appointed state assayer in accordance with an act of April 20, 1850, commenced to issue stamped ingots, varying in size from about forty to one hundred and fifty dollars. The firm of Moffat & Co. also issued stamped ingots, varying in size from about nine to two hundred and sixty dollars. In 1851,

when in accordance with an act of congress of 1850 a United States assay office had been established in San Francisco, the same firm of Moffat & Co. issued fifty dollar pieces, bearing the stamp of Augustus Humbert, United States assayer. They consisted of large octagonal disks, a little thicker than double eagles, and became famous under the common name of "slugs." A round fifty dollar piece was afterwards issued by Wass, Molitor & Co., and within a year or two various coins, usually twenty, ten and five dollar pieces, were sent out by Kellogg & Co., Wass, Molitor & Co. and others. In 1849 twenty-five dollar pieces of California gold were issued by Templeton Reid; but there were not many of them. All these pieces, though not United States coins and not a legal tender and as a rule not intrinsically worth what they purported to be, passed current in the early days. A few years afterwards, and particularly after the United States branch mint was established in California, they fell into disrepute and were withdrawn from circulation; and they are now never seen except as curiosities or in numismatic collections.¹

There were ups and downs in the mercantile business of San Francisco; but as a rule it was very large and exceedingly brisk. The market was singularly subject to fluctuations. The main reason was the immense amount of merchandise sent out on ventures and the necessity, on account of the risk and expense of keeping it on hand, of selling it as soon as possible. When a ship came in, its cargo was almost immediately disposed of at auction. If the articles imported happened to be in demand, great gains were made, and made rapidly: if, on the other hand, several ships having the same kinds of goods arrived at the same time, or if for any reason the goods were not in demand, a great loss was sustained, and sustained equally as rapidly. Everything went with a rush. Everybody had to be wide awake and always on hand. The act and the thought had to go together. There was no time to delay. To strike even rashly was better than not to strike at all. To hesitate was certain loss. It is true that in the course of time, as capital, credit and storage room increased,

¹ Annals of San Francisco, 362-364; Stats. 1850, 338; New Varieties of Gold and Silver Coins, &c., by Jacob R. Eckfeldt and William J. Dubois, New York, 1851, 7-9.

business became more methodical and regular; but much of the old push and rapidity of action remain and much of the old auction system still holds so important a place in the business of San Francisco and almost every branch of its business as to be a marked characteristic.

The exigencies of this peculiar business, where gain depended in most cases upon the rapidity with which special cargoes that happened to be in request could be procured from the Atlantic States or Europe, demanded an improvement in the construction of ships. Instead of the clumsy old vessels, that took from six months to a year to elbow their way from New York to San Francisco, something lighter and easier and much swifter was required. It was the Californian trade that developed that beauty of the ocean, the clipper ship. The square-shouldered, ill-balanced old hull of the Atlantic and Indian trade was narrowed; its bow sharpened; its sides curved so as to glide easily through the water; its bowsprit, masts and yards lengthened; and canvas tacked on to every conceivable quarter where it could draw a breath of wind. And in consonance with the improvement in appearance and speed, more suggestive and appropriate names were adopted. Instead of the Elizas, Euphemias, Franklins and Lafayettes, the new ships were called White Squalls, Flying Clouds, Trade Winds, Meteors and so on. One of the first, the Sea Witch, arrived at San Francisco from New York in July, 1850, in ninety-seven days; the Surprise arrived in March, 1851, in ninety-six days; the Sword Fish in February, 1852, in ninety days, and the Flying Cloud in August, 1851, in eighty-nine days, which was the shortest time made. About seventy-five of these fast vessels, entitled to be called clippers and carrying about one thousand tons burden each, arrived before the end of 1852. They soon entirely superseded the old-style vessels and often earned enough on a single voyage to more than pay the cost of construction. The same causes, that led to the improvements in the speed of vessels, and the additional cause that it was very expensive in the early days for a vessel to lie at any of the wharves, costing as much sometimes as from one hundred to two hundred dollars a day for large ships, led also to improvements in the manner of loading and

unloading them; and probably in no port in the world could a cargo be taken out or put into a vessel with more rapidity than at San Francisco. The occupation of the stevedore became a great business, in which those engaged took great pride, justly counting themselves a very worthy portion of the community.¹

But while business was thus active and the citizens immersed in trade and schemes for making money, they were very heavily burdened with public expenditures and taxation of various kinds. For the year ending in the middle of 1852 there were collected in the city for city licenses about two hundred and seventy-six thousand dollars and for city taxes about two hundred and sixty-three thousand dollars and for state and county taxes about two hundred and thirty-one thousand dollars—making in all very nearly seven hundred and seventy thousand dollars. During the same year there was collected at the custom-house for duties on importations very nearly two millions of dollars. Besides these sums thus paid, the owners of real estate were assessed two-thirds the expense of grading and planking the streets opposite their lots; and all the citizens in general contributed largely for special police, private fire companies and many other public purposes. Estimating the population at that time at thirty-six thousand, each person on an average paid in direct and indirect taxation over forty dollars—a sum which very few cities could have borne. Yet, notwithstanding this great drain, the extravagance of the common council continued, and the public burdens kept mounting up higher and higher.²

The new city charter of April 15, 1851, had provided that city officers should be elected annually; but that the first election under it should take place on April 28, 1851, and "thereafter annually at the general election for state officers." The first election was accordingly held; and the officers elected, with Charles J. Brenham as mayor at the head, were duly installed. Some few persons claimed that the next or second city election should be held at the general election for state officers on September 3, 1851; but the parties in office insisted that they had been elected for at least a year and that the next city election

¹ Annals of San Francisco, 391, 392; Hittell's San Francisco, 162-164.

² Annals of San Francisco, 393, 394.

could not regularly come up until September, 1852. They therefore refused to take any step to order a new election in September, 1851, while the other party proceeded to run a ticket for themselves. The community in general took little or no interest in the matter, supposing the election to be void; and the opposition ticket, with Dr. Stephen R. Harris as mayor at the head, being unopposed was of course chosen. After the election was over, the newly chosen persons demanded the offices and, upon refusal of the incumbents to surrender, Harris, the newly elected mayor, commenced a suit in the fourth district court against Brenham to try the question as to which set of officers was entitled. The district court, Judge Levi Parsons, by some peculiar process of reasoning, came to the conclusion that the election of September 3, 1851, was valid; but that the officers elected in April were entitled to hold for one year; and that therefore the new officers would not take office until April, 1852, or in other words not until six months after their election. From this decision Harris appealed to the supreme court, which reversed the judgment and held that the election properly took place in September, 1851, and that the mayor elected then was immediately afterwards entitled to his seat. Brenham upon this yielded to his successor; but the other old officers, not having been parties to the suit, though the same reasoning applied to their cases, declined to give up, unless the new officers would resign also, so that both parties might go again before the people. This proposition being refused, there was considerable bickering; but finally when the year was nearly exhausted the old officers went out and the new ones came in.¹

Harris made an excellent mayor, as indeed Brenham had also been; but the common council, with which he had to deal, was no improvement on the old set of officials, who had next to bankrupted the city. It was this council that attempted to foist the Colton grants upon the municipality but was prevented by Harris as already stated. It however succeeded in various other jobs, which cost the city large losses. One of the most notorious of these was the purchase of the Jenny Lind theater or, as it was commonly called, the "Jenny Lind theater swindle." After

¹ Annals of San Francisco, 326, 348-350; People *vs.* Brenham, 3 Cal. 477.

the destruction of the old city hall or Graham House in the great fire of June 22, 1851, the municipality was obliged to rent temporary quarters for its public offices; and, on account of the exceedingly high rates of those days and the different departments being more or less scattered, great expense was incurred as well as much inconvenience experienced. It was highly necessary to procure a new city hall; and it seems that a proper one might easily have been procured or even been built at a comparatively small cost; but, for reasons best known to themselves as was said, the common council, in conjunction with the board of supervisors of the county, determined to purchase the Jenny Lind theater on Kearny street; tear out a portion; remodel the inside, and convert it into a municipal building. The original Jenny Lind theater, owned by or held in the name of Thomas Maguire, had been destroyed in the same fire of June 22, 1851; but it had been almost immediately rebuilt and opened on October 4, 1851. The proposed price to be paid for it, as it stood, was two hundred thousand dollars; but it was believed that the necessary alterations would involve an expenditure of nearly half as much more, making a total cost, as was claimed, of twice what it ought to be and getting a structure miserably built and badly adapted for municipal purposes at the best. An ordinance authorizing the purchase passed by round majorities in both boards of the common council but, when presented to Mayor Harris, was returned without his approval; and then, on June 4, 1852, the two boards passed it over his veto.¹

Meanwhile the public, finding that the so-called swindle was to be accomplished notwithstanding all that it could say or do, waxed wroth. On the evening of June 1, one of its frequent indignation meetings was held on Portsmouth Square, at which the purchase and those connected with it were passionately denounced. David C. Broderick, who was generally regarded, and doubtless with truth, as interested in the purchase and instrumental in manipulating it through the common council, attempted to defend the measure; but he was silenced by the reproaches of the angry crowd. He persisted in attempting to force the meeting against its will to listen to his unwelcome

¹ Annals of San Francisco, 345, 353, 394, 395.

remarks; and it broke up in disorder and almost riot. The matter was finally carried by some of the public-spirited citizens to the supreme court, which decided that the common council and supervisors had the power to make the purchase. Thereupon the main opposition ceased; the purchase was completed, and the alterations were made. But, as was anticipated, they cost a very large sum of money and the building, though used for public purposes, never was fit or suitable. It had to be repeatedly repaired and braced up and in the course of about sixteen years was so cracked and shattered that soon after the earthquake of 1868, the third story had to be taken off for fear of its toppling over.¹

In spite, however, of local jobbery and general municipal extravagance, the city continued growing in size and beauty. The glut of the market, caused by the excessive and improvident importations of 1850, and the consequent fall in prices and serious losses to shippers of goods, which characterized 1851, produced their natural effects; and a marked change showed itself in 1852. Better judgment as to the amount and character of the merchandise demanded by the market was exercised; and as a result prices began to go up and business became firmer. But, though a healthier state of trade thus prevailed, there were still some injurious fluctuations. In the latter part of 1852, for instance, the supply of a number of necessary articles failed and their prices went up to extravagant figures. Among other things printing paper gave out almost entirely. In July and for several subsequent months the *Alta California* newspaper, on that account, had to be printed on a small double sheet with a page measuring only ten by fourteen inches. The *Herald* newspaper, for the same reason, was printed on coarse colored paper such as was used for wrapping purposes. Flour, that had been eight dollars a barrel in March, ran to upwards of forty dollars; rice, that had been a few cents a pound, advanced to fifty cents, and various other kinds of provisions in proportion. The balance, however, was in the course of a few months, and with the use of fast-sailing clipper ships, restored; and the city, notwithstanding suffering serious blows from time to time, steadily progressed.²

¹ *Annals of San Francisco*, 395, 396; *People vs. Harris*, 4 Cal. 9.

² *Annals of San Francisco*, 366, 367, 397, 418, 419, 422.

The first brick building in San Francisco seems to have been built at the corner of Montgomery and Clay streets by Mellus & Howard in September, 1848. The first erected on beach-and-water property was the American theater on the south side of Sansome street between California and Sacramento. This was a large building put up in the summer of 1851 and opened on the evening of October 20 of that year, on which occasion it was crowded with an audience of about two thousand persons. Their weight caused the entire structure to sink nearly two inches, occasioning fears as to the safety of a brick building on what was called made-ground. But as the sinking was regular and then stopped and the house continued to stand erect and firm, confidence was soon restored; and in a comparatively short time the foundations of other brick houses were laid; and before the end of 1852 the bay section of the city, as well as the lower portions of the high ground, was studded over with substantial buildings, which not only offered barriers to the recurrence of any such great conflagrations as those of 1850 and 1851, but also beautified the city.¹

To supply the demand for bricks, extensive yards for their manufacture were established on the outskirts of the city and in its neighborhood, wherever suitable clay could be found. But in some cases even more substantial materials were demanded. The front of the Jenny Lind theater, afterwards the city hall, was constructed of finely dressed yellow-tinted sandstone, brought from Australia; and in 1852 the most substantial and imposing business house of the day, occupied by Adams & Co. and Page, Bacon & Co., the most pretentious bankers and express agents of the country, was constructed by John Parrott on the northwest corner of Montgomery and California streets of granite blocks imported from China. Several other large granite buildings were erected; but the general resort was to bricks, of which the large building on the southeast corner of Sansome and Sacramento streets, used temporarily as the custom-house and known as Custom-house Block, Montgomery Block on the east side of Montgomery between Washington and Merchant streets, the Metropolitan theater on the west side of Montgomery between

¹ Parker's Directory, 9, 20; Annals of San Francisco, 354.

afterwards, of an average of about two hundred and fifty patients. On the same May 17, 1853, on which the state hospital at Stockton was abolished, an act was passed for the establishment of the state insane asylum at that place; and, in accordance therewith, the property of the old hospital was turned over to the new asylum, which was then and there established.¹

The imports of 1853 were about seven hundred and forty-five thousand tons of goods, worth upwards of thirty-five million dollars; the exports about fifty-five million dollars worth of gold-dust and nearly seven hundred thousand dollars worth of quicksilver. One thousand and twenty-eight vessels arrived in port, of which six hundred and thirty-four were American and three hundred and ninety-four foreign; and one thousand six hundred and fifty-three vessels departed. Of the imports there were, among others, one hundred million pounds of flour and meal, worth five million dollars; twenty million pounds of butter, worth four million dollars; twenty-five million pounds of barley, worth half a million dollars; eighty million feet of lumber, worth four million dollars; immense quantities of pork, beef, sugar, soap, candles, coffee, tea, rice, boots and shoes, dry goods, coal, and unspecified provisions and merchandise. But of all the imports the amounts of liquors, including brandy, whisky, rum, gin, wines, ale, porter and beer, were simply enormous. By actual count there were already in the middle of 1853 five hundred and thirty-seven places in San Francisco where liquor was sold, including forty-two wholesale liquor stores. There were five hundred and fifty-six bartenders or, to add reserves occasionally employed, seven hundred and forty-three, making one for about every sixty-eight inhabitants.²

Not only was 1853 the year of largest gold yield, reaching some sixty-eight millions of dollars; but it was also the culminating year in many other respects. Real estate in San Francisco was higher than at any former period or for a number of years afterwards; and rents were nearly as high as in 1849. There was still the same old energy and vigor among the people, the

¹ Stats. 1852, 45, 56, 139, 140; 1853, 93, 203, 208, 281; Annals of San Francisco, 326, 388, 389, 450-452.

² Annals of San Francisco, 452, 494, 495.

same rapid making and reckless spending of money, the same extravagance, gambling and vice. But the city had improved immensely in appearance. Its houses resembled palaces; its broad streets bustled with activity; its wharves were crowded; its banks, hotels, theaters, gambling houses, billiard rooms and drinking saloons were filled; its stores and shops contained and displayed the richest articles of taste and luxury; immense amounts of coin circulated; the finest horses and carriages, the most elegant dressing, the costliest delicacies for the table—everything in fact that fancy could crave and money could buy was forthcoming and plentiful. It was a great city; everybody was young and wide awake; there were no old people; there were no maimed or deformed people; and when the pioneer of four or five years contrasted what he saw around him with the shaky wooden shells and flimsy tents, the mud holes, sand piles, heaps of refuse and dirty chaparral of 1848 and 1849, everything seemed almost a dream or a scene of enchantment of the Arabian Nights come true. There always had been and were still evil influences or, to keep up the figure of the Arabian tale, wicked magicians, in the shape of thieving speculators and corrupt officials, to cripple its resources, retard its growth and injure its prospects; but, under the protection of good genii, it rose superior to all baneful and sinister spells and flourished in the sunshine of fortune's favors.¹

The next great attack upon the city's prosperity, but fortunately not so successful as the Peter Smith swindle, came from John Bigler, governor of the state, and a party of his political friends. In his annual message of January 5, 1853, the governor called the attention of the legislature to the enormous liabilities and serious embarrassments under which the state was laboring, with an impending debt of over two millions of dollars, a prospective expenditure of over a million for the year 1853 and an estimated receipt for the same year of less than half a million. One of his remedies for these evils was to amend the constitution, so as to make the sessions of the legislature biennial instead of annual and shorten their duration to ninety days; to do away with a large number of offices and officers, particularly some of

¹ Annals of San Francisco, 497-508.

the district judges and district attorneys, and to reduce salaries. By these means he proposed to be able to effect a saving of half a million of dollars annually. But to pay the debt, his great resource was to extend the water front of San Francisco six hundred feet into the bay beyond the red line and dispose of the additional lots thus secured for the benefit of the state treasury. As a matter of fact all this property, six hundred feet beyond the red line, had been included in the Peter Smith swindle, which absolutely stopped at nothing, and on January 2, 1852, had been knocked down under the hammer to George McDougal, James Becket and James R. Maloney; but as the city clearly had no proprietary interest beyond the red line, it was plain that the sale was void. The purchasers at that sale, however, claimed to have some kind of an interest that ought to be respected and willingly entered into the scheme of water-lot extension.¹

On March 17, 1853, Jesse Brush of Tuolumne county introduced into the assembly a bill for the proposed extension and to dispose of the property and divide the proceeds, one-third to the state and two-thirds to the purchasers at the Peter Smith sale and their grantees. As the property was worth at least six millions of dollars, the state was expected to get two millions, enough to pay off the debt; and the Peter Smith men, who in the meanwhile had distributed a large percentage of their claims where it might be supposed to effect most good, were to take the balance of four millions. It was an enormous project, concocted and manipulated with great skill, and came very near succeeding. But if the Peter Smith sales deserved to be called a swindle, this extension-act business was a greater swindle. The proposition was to injure the state, the city and all the owners of property inside the red line for the benefit of the schemers. In the opinion of competent judges the proposed extension was calculated to do incalculable harm to the harbor by shoaling the water, while at the same time it was well known that the owners of property along and near the red line had purchased on the faith and pledge of the state, contained in the act of March 26, 1851, of the permanence of the water front at that line and that the extension would require a ruinous raise

¹Senate Journal, 1853, 11-20; Wheeler's Land Titles, 98, 99.

of grade of all the lower part of the city. Representations to this effect and protests against the scheme were made by the mayor, the board of aldermen and the board of assistant aldermen of San Francisco respectively and by all the citizens, except a very small number who were specially interested in its favor. But Bigler and the other extensionists were determined to carry the project in spite of any and all remonstrances that could be made; and on April 1, 1853, the bill passed the assembly by a vote of thirty-one ayes to twenty-seven noes.¹

Of the assemblymen, who voted for the bill, only two were from San Francisco, George H. Blake and J. N. Cardozo. The other assemblymen from the city were Elcan Heydenfeldt, John Sime, James M. Taylor, Samuel Flower and Frederick A. Snyder. All the latter were bitterly opposed to the bill; and on the day after its passage they all resigned their seats and appealed to their constituents for approval of their conduct.² On April 15 a new election took place at which all except Snyder were again candidates; and they were returned by a majority of five to one against their antagonists—thus demonstrating the popular feeling on the matter. In the meanwhile the bill on April 5 had reached the senate, where another desperate controversy over it was carried on. One of the main objections urged there, as it had also been in the assembly, was the provision of the act of 1851 that the red line boundary should be and remain a permanent water front; but this had been met by a remarkable opinion of S. Clinton Hastings, the attorney-general, to the effect that the pledge of the state thus given was only intended to prevent the city from extending its water front and did not apply to or bind the state itself. It is not at all likely, however, that such an opinion had, or that any opinion under the circumstances would have had, any effect in making or changing a vote one way or other. The extensionists, taking advantage of the advocacy of those who were personally interested and the common prejudice of the country against the city, which manifested itself in the early days as well as it has more or less in every legislature since, had a certain number of adherents and could get no

¹ Assembly Journal, 1853, 282, 373.

² Assembly Journal, 1853, 376.

more. On April 26, when the bill was about to come up for final passage a motion was made by Joseph C. McKibben to indefinitely postpone it. Upon calling the roll, it was found that of twenty-six senators voting thirteen were for and thirteen against the motion. All eyes were now turned upon Samuel Purdy, the lieutenant-governor, who was president of the senate and had the casting vote. He unhesitatingly voted against the bill and thereby killed it. His vote became famous and made him for the time the most popular man in California, while it saved the city from great loss and the state from great disgrace.¹

Almost immediately after the defeat of the extension scheme, the water-lot property of San Francisco rose to astonishing figures. The rise was like the elastic movement of a spring after the removal of severe pressure upon it. Lots commanded very high prices and there were few or none for sale. Among the beach-and-water lot property, however, that had been given to the city for ninety-nine years by the act of March 26, 1851, there was a portion, consisting of four small blocks lying along Commercial street wharf and extending from Sacramento street on one side to Clay street on the other between Davis and East streets, which by an ordinance of the common council of November 4, 1852, had been reserved as a free public dock for shipping. It was generally known as the "city slip property." There was originally deep water over them; but as the streets extended further and further eastward on each side of these blocks, it was found that it would be impracticable to use them for dock purposes; and on December 5, 1853, an ordinance, supposed to be passed by the common council, was approved by the mayor, ordering them to be sold at public auction. The sale took place on December 26, 1853. The property was divided up into one hundred and twenty lots, most of them twenty-five feet front by about sixty deep; and they were considered so valuable and were in such demand that they readily brought an average of nearly ten thousand dollars a lot, the corners selling for considerably more, or one million one hundred and ninety-three thousand five hundred and fifty dollars in all. Of the proceeds of this sale the city was obliged, in accordance with

¹Senate Journal, 1853, 376, 420, 421; Annals of San Francisco, 437-442.

the terms of the grant, to pay one-fourth to the state. It had also to pay one hundred and eighty-five thousand dollars to satisfy claims for damages set up by the owners of adjacent wharves. But after all deductions made, there was a very handsome margin for the city, which would have gone far towards relieving it of many pressing obligations, had it not been that the ordinance of December 5, 1853, was not properly passed by the common council and that as a consequence the sale under it was void and the city, as will be seen further on, lost instead of gained by the transaction.¹

Another important sale of water lot property took place on December 28, 1853, and embraced a portion of what was known as the "government reserve" between Pacific and Broadway streets, east of Sansome. It had originally been a portion of a tract of land four hundred varas square, extending eastwardly from Sansome street between Broadway and Washington, claimed to have been granted on December 10, 1842, by Governor Alvarado to Robert Ellwell. This Ellwell was an American, who had come to the country from Boston in 1825 and afterwards married a daughter of Juan Sanchez, a prominent ranchero. In 1842 he had presented a petition, as was said, for "permission to establish a place in San Diego or San Francisco for salting cattle-skins and to occupy any competent lands as his own;" and permission had been granted him to "establish himself on the beach or in the place that suits him, not to exceed four hundred varas," and he had thereupon selected the spot referred to and took possession. The grant, if there ever was one, which seems to be doubtful, was not archived; and it never came to anything. Afterwards, in 1847, the portion above mentioned was reserved from the Kearny grant by Major Hardie and marked on the map as "Government Reserve:" On November 27, 1849, it was leased for ten years by Captain E. D. Keyes on behalf of the United States to John B. Steinberger, commonly called the "Baron;" and there that eueptic individual established and during the days of his assumed grandeur maintained his butchering business. As, however, both the

¹ Dwinelle's Colonial History, Add., 317, 318; Annals of San Francisco, 482, 483.

Kearny grant and the Hardie reservation were void, the Keyes' lease conferred no valid rights. All the title in fact passed to the state; and the use of the property for ninety-nine years would have passed to the city under the act of March 26, 1851, if it had not been expressly reserved from such operation. But on May 18, 1853, after the failure of the extension scheme, the legislature, for the purpose principally of paying interest on the state debt, passed an act for the sale from time to time of so much of the remaining interest of the state in the beach-and-water property as would yield sums of not exceeding three hundred and fifty thousand dollars. In this act the so-called government reserves were specially mentioned and express authority given to sell all of them, except so much as might have been selected by or on behalf of the United States for a custom-house. It was under this act, usually known as the first act for the sale of the state's interest in the beach-and-water lots, that the sale of December 28, 1853, took place. The property sold consisted of fifty-one lots and the price for which they were knocked down amounted to three hundred and fifty thousand four hundred and seventy-five dollars or an average of six thousand eight hundred and ninety-four dollars per lot.¹ These prices, as well as those obtained at the city slip sale of two days before, were much higher than had ever been received before and higher than was reached for many years afterwards.²

But, though the city's marvelous prosperity in 1853, as indicated by its increase in population, its many new and magnificent buildings and other improvements and the extraordinary prices at public sale of its lots, was not stopped or retarded by the abortive scheme of extending its water front, there was another legislative measure, almost as strenuously and persistently advocated by the governor and more successful in obtaining a sufficient vote to insure its passage, that was calculated to do and that did for a time do a great deal of damage to the city. This was the revenue act of May 18, 1853, or rather those pro-

¹ Annals of San Francisco, 483; Wheeler's Land Titles, 21, 72-75.

² Davis' Sixty Years in California, 173; Dwinelle's Colonial History of San Francisco, 189, 259, 261, 262, 269; Stats. 1853, 219; Assembly Journal, 1854, 540.

visions of it which operated principally upon and seem to have been leveled specially at the city's business. Among these provisions was a license of one thousand dollars per year upon every auctioneer and a tax of one per cent in case of personal property, and one-half of one per cent in case of real estate, upon the sum for which any of the same might be struck off or privately sold by an auctioneer; a license of ten cents upon every one hundred dollars of business transacted by bankers or dealers in exchange, stocks, gold-dust or bullion, or common carriers of gold-dust or bullion; and particularly a tax of sixty cents upon every one hundred dollars of the amount of any sales of "consigned goods," which were defined to be any personal property brought or received within the state for sale and owned by any person not domiciled therein. These impositions were in addition to the ordinary taxes on property; and, as they applied almost exclusively to the city, they were felt to be exceedingly unjust and oppressive. It was estimated that the tax upon consigned goods would impose a burden of three hundred thousand dollars a year upon the commerce of San Francisco, and the licenses upon auctioneers of personal property, not counting real estate, one hundred and twenty-five thousand dollars more, while the percentage upon bankers would be so monstrous as to practically put a stop to their business.¹

San Francisco merchants were not disposed to suffer tamely such outrages. They refused to pay the impositions. Suits were commenced against a number of them by the state: they resisted on the grounds that the taxes on consigned goods and on auctioneers were unconstitutional. But either their case was badly presented to the supreme court or that tribunal, in common with the politicians of that day in general, were unwilling to do the city justice. Early in January, 1854, it decided that the impositions were not unconstitutional and in substance that they would have to be borne. But the merchants and citizens of San Francisco were not convinced by the reasoning of the supreme court, as voiced by Hugh C. Murray, the chief justice, nor satisfied to submit. On January 3, 1854, immediately after the decision, they held a large public meeting in the Merchants'

¹Stats. 1853, 233; Annals of San Francisco, 510, 511.

Exchange in San Francisco; denounced the objectionable portions of the revenue act as "flagrantly oppressive and unjust" and declared that they would never submit "until all lawful and proper methods of redress should be exhausted"—meaning an appeal if necessary to the supreme court of the United States and in the meanwhile a memorial to the legislature to repeal or modify the provisions of the revenue act complained of. As a matter of fact the next legislature, by a new revenue act of May 15, 1854, did make some very material modifications, reducing the licenses and taxes on auctioneers, bankers and dealers in stocks, gold-dust and bullion about one-half. But in reference to consigned goods, only a slight reduction was made; and the merchants continued to refuse to pay it. And being supported by the better part of public opinion they managed as a rule to evade payment; and the law fell into desuetude.¹

¹ Annals of San Francisco, 510, 511; People *vs.* Coleman, 4 Cal. 46; Stats. 1854, 103; Crosby *vs.* Patch, 18 Cal. 439.

CHAPTER V.

BUSINESS DEPRESSION OF 1854.

THE tide of San Francisco's early prosperity and in fact of all California's, which was at its highest flood in 1853, began to ebb in 1854. There were various reasons for this. In the first place the earlier rains of the winter of 1853-54 had been very slight and the production of gold in the mines during the winter months was materially less than in the winter before. Later on in the spring there were abundant rains and nearly all the miners found profitable employment; and it was hoped in many quarters that the continued large production of gold, though not so extensive as it had been in 1853, would still support and keep up the overstrained business of the city. But it was impossible. Affairs there had reached their utmost tension and had to relax. A much larger number of houses, including fire-proof buildings, had been erected than was needed; and the result was a reduction in rents, a fall in lots, improved as well as unimproved, and failure or serious embarrassment of real-estate operators. At the same time an excessive importation of merchandise had taken place; the markets were glutted and prices rapidly fell. The ill-advised legislation already noticed had something to do with the depression; and also the fact that agriculture and particularly the cultivation of wheat had begun to start up and reduced the demand for imports. It was a depression which lasted some years; and at one time in 1854 it was felt to be so grievous that several vessels were freighted back to New York with goods that had been brought from there.¹

Still the city kept on improving or, to speak more correctly, the improvements previously started continued to advance. In

¹Annals of San Francisco, 516, 519-521.

February, 1854, a new or third San Francisco directory, published by the book-selling firm of Le Count & Strong, gave the names and addresses of about twelve thousand persons, showing an increase of three thousand directory names over those contained in Parker's directory of December, 1852, and seventy-five hundred over those of Kimball's directory of September, 1850. This indicated more than a doubling of the population of 1850 every year. In other respects also there were many improvements. On the evening of February 11, 1854, the city was lighted for the first time with coal gas. Though only about three miles of mains had been laid and only a few of the principal streets and leading houses were lighted, every day saw the lines extending. The price charged for gas was fifteen dollars per thousand feet; but coal was from thirty-six to forty dollars per ton; labor from six to seven dollars per day, and money brought interest at the rate of three per cent per month. At a banquet given in the Oriental Hotel by the San Francisco Gas Company, on the occasion of the introduction of the light, some reminiscences were indulged; and it appeared that the first street lamps in the city had been erected in October, 1850, by James B. M. Crooks. They were oil lamps and were situated in Merchant street and paid for by private subscription. In the course of a few months afterwards he erected ninety similar lamps in Montgomery, Washington, Clay and Commercial streets, paid for in the same way. All of these, with the exception of four, seem to have been destroyed by the great fire of May 4, 1851. The next year Crooks, in pursuance of a contract made with the common council, lighted all that part of the city lying between California, Jackson, Kearny and Battery streets with the same kind of oil lamps and continued to do so until the introduction of gas as above mentioned.¹

It had been hoped that fresh water would be introduced and distributed throughout the city as early as gas; and a large amount of money and labor was expended to accomplish this purpose; but the plans adopted proved impracticable and had to be abandoned. In the very early times a little water for domestic purposes was collected from small springs and shallow wells on

¹ *Annals of San Francisco*, 516-518.

the hill-sides, which, in cases of houses situated at any distance from these sources of supply, had to be carried on the backs of beasts of burden or on carts or wagons. The business of water-carrying became a very extensive and lucrative occupation and furnished employment to a number of persons. After a while a few artesian wells were sunk. But the water from these, as well as the surface water, was not good; and those, who were particular, began to purchase supplies brought from the springs of Saucelito in Marin county, the resort for many years of shipping in the bay, which were justly famous for their sweetness and purity. These waters were brought over first by boats and afterwards by steamers regularly in the trade. In June, 1851, as has been seen, a franchise was granted by the common council to Azro D. Merrifield to introduce fresh water and he and his assigns proceeded to make excavations and dig tunnels with the object of bringing in the waters of Mountain Lake, a large spring-fed pond situated in a depression of the hills about three and a half miles west of Portsmouth Square;¹ but, as before stated, it was found that the project, as planned by Merrifield, would not pay and it was given up. It was not until 1858 that the first water, which was taken from Lobos creek, a small stream flowing northwest from near Mountain Lake and supposed to be fed by it, was brought in by John Bensley and his associates. This line, the original of the complicated system, known as the Spring Valley Water Works, which now supplies the city, consisted of a wooden flume running from the mouth of Lobos creek around Fort Point and the Presidio and along the bluff bay shore to Telegraph Hill, where, as soon as the proper machinery could be erected, the water was pumped up to a reservoir and thence distributed in pipes.

Of course, in those early days, when water cost not less than a bit a bucket, there was not much more washing of clothes than was indispensable. Most of what was done was the work of Spanish American and Indian women and Chinamen and took place on the borders of the fresh water pond, about half a mile south of Black Point, commonly known from the use thus made of it as "Washerwoman's Lagoon." When Chinamen took to

¹ Annals of San Francisco, 341-343, 518.

the business, instead of rubbing the clothes in the ordinary fashion, they had a way of slapping the surface of the water with them, which in proportion to the number employed at the time produced a noise that could be heard a long distance. At the same time there were a few laundries and a few washerwomen, who did very particular work, in localities convenient for water in the city. But not all the washing of the early days was done even in California. In 1849, as the ordinary price was eight dollars a dozen, large quantities of soiled linen were sent for cleansing to foreign ports. In the autumn of that year, according to Bayard Taylor, a vessel, just arrived from Canton in China, brought over two hundred and fifty dozen pieces, which had been sent out to be washed a few months before, and another from the Sandwich Islands brought back in like manner a hundred dozen; and the practice appeared to be becoming general.¹

About the time that gas was introduced there were various other important improvements. Not only were the Hoadley grades, already noticed, which proposed in substance to cut down all the hills and fill up all the hollows in the city, to some extent modified; but many of the principal streets were paved with water-worn stones of a few pounds weight, called cobbles, gathered in the river beds of the interior of the state. Though this kind of paving was rough and noisy, it was much more durable and in many respects preferable to planking. Several new streets were graded, including Powell from Clay to North Beach, and Pacific through the hill from Montgomery to Sansome. A road was opened along the bay shore around the eastern and northern base of Telegraph Hill. About the same time omnibuses, which were first introduced about the beginning of 1852, began to run regularly at intervals of half an hour throughout the city between North Beach and South Park. An important move, but perhaps not an altogether favorable one for the city, was also made in reference to interior transportation of passengers and freight. A number of the owners of steamboats plying on the bay of San Francisco and interior waters combined and on February 22, 1854, organized the "California Steam Navi-

¹ Bayard Taylor's *El Dorado*, III.

gation Company," which for the next fifteen years had substantially the monopoly of the passenger and freight traffic between San Francisco and the chief inland ports. The rates established by this company, and for some years collected, were for cabin passage to or from Sacramento or Stockton ten dollars, for deck passage seven dollars, and for freight eight dollars per ton to Sacramento and six to Stockton. To or from Marysville cabin passage was twelve dollars, deck passage ten dollars and freight fifteen dollars per ton. The success and profits of this company, on account of its having and maintaining the monopoly of the trade, were enormous. Many attempts were made, as well in the interior as in the city, to form competing companies and run opposition boats; but they were all either forcibly driven from the field, bought off or otherwise destroyed; and the corporation continued dividing fat dividends until railroad communication diverted the business.¹

The extent of real-estate depression in the spring of 1854, as compared with the flush prices of the early part of 1853, was shown by a public sale on March 9 and 10 of portions of the so-called government reserve property near the water front. Ninety-three beach-and-water lots between Washington and Jackson streets and five lots between Pacific and Broadway streets were sold for two hundred and thirty-five thousand three hundred dollars or an average of about twenty-four hundred dollars per lot—only about one-fourth as much as the average at the city slip sale of December 26, 1853. On the other hand the first returns of the large gold yield of the season, amounting to sixty-four million dollars worth of dust for the year 1854, the largest of any year except 1853, had begun to come in. And on April 3, 1854, the United States branch mint at San Francisco was thrown open for business purposes. This institution had been provided for by an act of Congress of July 3, 1852; but it was only towards the end of 1853 that a commencement was made to construct a building and furnish the necessary machinery. The first mint structure was of brick, sixty feet square and three stories high, covered with cement and fire-proof, on Commercial street between Montgomery and Kearny. Its appointments

¹Hittell's San Francisco, 208, 209; Annals of San Francisco, 521.

were of the newest, finest and strongest kinds; and it had a capacity of coining about thirty million dollars worth of gold per year or nearly one hundred thousand dollars daily. As the United States coins, principally twenty dollar pieces but also some tens and fives, were turned out, they rapidly superseded the private coins, as before mentioned. Notwithstanding the influx of gold and of coins current over the whole world, however, the business depression continued and, instead of improving, grew worse and worse.¹

On May 30, 1854, a private company, which had taken possession of or, to use the language of the day, squatted upon a large tract of land about two miles and a half west of Portsmouth Square, apparently supposed to be too remote ever to be reached by the city or needed for city buildings, opened and dedicated with religious services and an oration by Edward D. Baker what was known as Lone Mountain cemetery. This burial ground, as originally projected in November, 1853, was to consist of three hundred and twenty acres, including the remarkable, isolated, conical-shaped hill, called Lone Mountain; but before the opening the size was reduced to one hundred and sixty acres, excluding Lone Mountain; and since then it has been reduced one-half and given the name of Laurel Hill cemetery. At that early time, the only practicable mode of access was a circuitous route, by way of Pacific street and the Presidio, some three or four miles in length and crossing two very steep hills. Some months afterwards Bush street was graded and planked, thus affording a direct and comparatively level road, most of the distance through sand and chaparral, to the main entrance of the city of the dead. All of the original three hundred and twenty acres, intended in 1853 as a cemetery, besides several square miles beyond and around it, were covered in those days with dense thickets of scrub live oak and other vegetation, which clothed the hills and slopes with a thick mantle of evergreen and presented to the eye, especially in contrast with the miles of white and drifting sand dunes along the ocean still further out, a landscape of peculiar beauty—a glimpse only of

¹ Assembly Journal, 1854, 542; Annals of San Francisco, 523, 525, 526.

which can now be obtained in out-of-the-way and undisturbed corners.¹

The first burials of Yerba Buena, not counting the bodies that were carried out to so-called consecrated ground at the Mission Dolores, appear to have generally taken place on the hills surrounding the town. The brow of Telegraph Hill overlooking the old landing place received a number of bodies, the remains of some of which were exposed years afterwards when Broadway and Sansome streets came to be cut into that part of it. A few graves, surmounted by black crosses and bearing Russian inscriptions, evidently the last resting-places of some of the Muscovites who had sojourned in the old village, were to be seen as late as 1849 on the opposite height to the westward, which was, for that reason as was said, called and is still known as Russian Hill.² Afterwards, when the village began to grow into a town, a grave-yard was opened on the road to North Beach in what is now the block bounded by Powell, Stockton, Chestnut and Lombard streets. In 1852 Yerba Buena cemetery, consisting of land reserved for public purposes, was opened on the top of a large and extensive sand hill, covered in part with oaks and chaparral on the triangle bounded by Market, Larkin and McAllister streets, where the new city hall now stands. Soon after the opening of Yerba Buena cemetery, the bones of many persons, who had been buried at North Beach, were removed to it; and in 1854 an ordinance passed the common council requiring the removal to it of all the bones and closing the North Beach cemetery. Soon after the opening of Lone Mountain cemetery, graves began in like manner to be removed to it from Yerba Buena; and afterwards in 1870, when the Yerba Buena property was about to be graded for the erection of the new city hall, all the bodies were required to be removed. All the old burial grounds were thus by degrees, as the town and city advanced to them, abandoned as such and covered, as they still are, with houses and a dense living population. Since then the city has advanced to and beyond Laurel Hill and the adjoining cemeteries; and, if the old Californian spirit for great undertakings, which

¹ Annals of San Francisco, 469, 538, 539.

² Bayard Taylor's El Dorado, 297; Burnett's Recollections, 383.

has characterized the past, continues in the future, it seems more than likely that in a not far distant time the geographical center of the city and county of San Francisco, instead of being as now a desert wilderness of unsightly grave-stones, will be covered and crowned with immense and magnificent structures, devoted to science, the arts and true civilization and worthy of the great commercial emporium of the western world.¹

By the middle of the year 1854 the lowest point of the commercial and business depression of those days had been reached and passed. On June 6, at a public sale under the already mentioned statute of May 18, 1853, for the sale of the so-called government reserves, twenty-two lots in the block bounded by Pacific, Broadway, Front and Davis streets were struck off for over one hundred thousand dollars or nearly twice as much per lot as was realized at the sale of March 9, less than three months before. It is true that rents, which had been materially reduced in the depression, did not advance; but they had been entirely too high and were still high enough to yield a large percentage. And the same was the case with wages, which had greatly fallen but were still extravagant in comparison with the cost of economical living. The price of building materials, likewise, which had declined to something like reasonable rates, did not in any respect go back to the fancy rates of former years. On these accounts in part at least, improvements of the better kind continued to go on in all parts of the city and particularly in that portion near the deep water at Clark's Point, which was supposed to be the most promising quarter. The new Merchants' Exchange and the new United States custom-house on opposite sides of Battery street between Washington and Jackson, besides many other massive edifices in the neighborhood, built in 1854, while most of Market street and the southern part of the city in general still remained a sandy waste, were a proof that enterprise was yet active and that the neighborhood of the landing at the north end of Yerba Buena cove and the streets next it were still regarded as favorite business locations and most worthy of being improved. Even Portsmouth Square, which had been simply an open, unoccupied waste, was in the course of 1854 graded and fenced. The talk at the time,

¹ Hittell's *San Francisco*, 184, 185, 219, 382.

or a little before, was to cover it with a structure of iron and glass, outvying in splendor and magnificence the crystal palaces of the world's fairs and far outdoing them not only in variety and excellence of natural productions to be exhibited there but also in articles of luxury and taste.¹

About the same time the United States government started to fortify the harbor of San Francisco. It had begun to take measures, with this end in view, very soon after the close of the Mexican war; but for various reasons little or nothing had as yet been accomplished. The old Spanish fortifications, though perhaps sufficient for the previous century, were of no avail as against any fair-sized modern war ship; and the few Spanish cannon they contained, which were not absolutely worn out, had been spiked at the time of the American seizure in 1846. During the military occupation several batteries, brought out in United States vessels by way of Cape Horn, were placed at various points overlooking the bay and harbor; but they were not permanent in character nor adequate as defenses. When the real work of fortification commenced, the plan adopted was to construct two lines of defenses—the outer one at the Golden Gate to consist of a fortress on Fort Point of one hundred and fifteen guns of ten and eight inches caliber in four tiers and a battery of one hundred guns directly opposite on Lime Point; and the inner line to consist of a fortress on Alcatraz Island with batteries on Black Point and Angel Island. The idea was to construct a gauntlet of cross fires, pouring a continuous succession of shot and shell, all the way from Point Lobos to Telegraph Hill, a distance of at least six miles, which no vessel of those days could resist or survive. The works thus begun were in the course of years completed; but since those days great changes have taken place in the mode of waging war and many changes and improvements have had to be made in the old fortifications to render them effective as against the steel-plated cruisers of the present day.²

Though business continued in many respects depressed, there was a reaching out for trade that became important. A treaty with Japan, concluded on behalf of the United States by Commo-

¹ Annals of San Francisco, 542-544.

² Annals of San Francisco, 545.

dore M. C. Perry on March 31, 1850, opened up a part of Japan to American commerce; and among the first-fruits of the negotiation were several voyages from San Francisco to that country and returns of full cargoes of Japanese goods. Efforts were made and some steps taken towards the establishment of a line of steamers between San Francisco and China; but it was not until January 13, 1866, that the steamer Ajax made the pioneer steamer trip to the Hawaiian Islands and afterwards on January 1, 1867, the steamer Colorado departed on the first regular steamer trip to China. As early as 1854, however, and occasionally for several years before, there were steamers running along the coast; and, in addition to the trade to the south, regular trips were made as far north as Vancouver Island. In 1854 a company commenced sending down coal from Bellingham Bay on Puget Sound and thereby started a traffic, which has been kept up to this time; and in the same year the Russian-American Commercial Company brought its first cargo of ice from Sitka in Alaska. Ice appears to have been first imported in large quantities by Ferdinand Vassault and others in 1851. It was brought from Boston. The ship Lucas from that port was laden with five hundred tons of it, besides eleven hundred barrels of apples. On arrival at San Francisco there were only two hundred and twelve tons of the ice left; but it sold at an average of twelve and a half cents per pound; and, as the apples brought thirty-five dollars per barrel, the venture netted nearly forty thousand dollars. In 1852, on account of the above-mentioned success in the ice business, the Lucas was sent to Sitka for a cargo of the article; but for several reasons, the principal of which was that the Russians wanted seventy-five dollars a ton for loading the vessel, it returned empty and the voyage was a loss. But in 1854, the Russian-American Commercial Company having in the meanwhile been organized and an arrangement made with the Russian government, which became interested in it, a cargo was brought down; and it was followed by an extensive trade, in which large amounts of money were realized.¹

An interesting circumstance, connected with the Russian-American Commercial Company, still further illustrates the

¹ *Annals of San Francisco*, 547; *Statements of Ferdinand Vassault*.

enterprise of the old Californian merchants and their reaching out for trade. As it had been demonstrated that ice was a valuable commodity, five vessels were employed in importing it from Boston in 1853. But as it was plain that, if proper arrangements were made with the Russian government, cargoes could be brought much cheaper from Sitka than from Boston, the above-named company was organized to accomplish that purpose. With this object in view Beverly C. Sanders, one of the corporators, was sent to St. Petersburg; and, being a man of good presence and fine address, he met with great success in his negotiations. One of the means he took to impress the Muscovites was to dress in a rich military costume and call himself a colonel. But on a certain occasion he came near losing his prestige. At a large party which he attended, an inquisitive lady asked him to what department of the United States army he belonged. He was at first somewhat startled; but the next moment, recovering his equanimity, he coolly answered, "To the pacific, madame"—a reply which, though perhaps not entirely appreciated, was received as perfectly satisfactory.¹

But notwithstanding these efforts to maintain and extend various enterprises, business had been strained by overspeculation and extravagance to such a degree that in the regular course of events there had to be a reaction more violent than mere depression. There were several circumstances that retarded it, such as the large yield of gold-dust, amounting as has been stated to sixty-four millions of dollars, and the large number of immigrants, numbering forty-eight thousand, in 1854; but, in the absence of very extraordinary reasons for keeping up the tension, a great revulsion was inevitable. The crash came in 1855; but there were numerous individual embarrassments and failures beforehand, which indicated the coming storm. By the middle of 1854, out of a thousand business houses in San Francisco, more than three hundred were unoccupied. In the course of the same year there were filed in the courts seventy-seven petitions in insolvency, representing an aggregate of several million dollars of liabilities and only a few thousand dollars of

¹ Statement of Ferdinand Vassault.

nominal assets, which in a city of not over forty thousand inhabitants was certainly a very large proportion.¹

Of all the failures of the year 1854, however, the largest, most disastrous and the one that attracted most attention was that of Henry Meiggs. This remarkable individual was a native of New York and came to California in 1850. He settled at North Beach and embarked in the business of buying and selling lumber. Having a prepossessing appearance and address, making it a rule to mingle in every matter of current concern, and being always ready and forward to contribute to objects of public benevolence or private charity, he posed as a citizen of most exemplary character and became a general favorite. He was a man of untiring energy, quick in making up his judgment, and clear and rapid in announcing his decisions. Altogether he was a man of marked personality; and, being very popular, he cut a large figure in everything with which he was connected and particularly with affairs at North Beach. In that region he was looked upon as a sort of Cæsar, with nobody entitled to second or even third place. For those personally acquainted with the times of a decade or two later, he could be best characterized, in respect to most of the points above referred to, by calling him an earlier William C. Ralston or by calling Ralston a later Henry Meiggs—it being understood that the comparison is not in either case intended to go further.²

Meiggs was an enthusiast and probably deceived himself; but, whether so or not, he created the impression that he was thoroughly convinced that North Beach was going in a short time to equal, if not outstrip, any other part of the city; and he acted, and acted largely, upon that faith. One of the first things he did was to organize a company and erect, among the redwood forests on the coast of Mendocino county, one of the largest and best equipped sawmills in the country. His object was to supply his lumber yard at North Beach. But it was not so much on account of the profits on the lumber he might sell that he calculated for his remuneration as on account of the prestige a flourishing business would give that quarter of the city. He

¹Hittell's San Francisco, 215-217, 491, 492.

²Hittell's San Francisco, 218.

claimed, and made his neighbors believe, that as North Beach was not only less than a mile from the business center of the city as established, but was as a matter of fact nearer the Golden Gate, it was in many respects superior as a business center to any other locality. He called attention to the circumstance that the titles to lands there were more settled and reliable than in any part of the southern portion of the city, which was plastered three or four deep with Spanish or Mexican claims, and that the current prices of lots were not one-quarter of the rates ruling elsewhere. He might have said, and probably did say, that though the winds and waves were somewhat higher than in Yerba Buena cove, they were not higher than in any part of the channel outside of the red line, nor high enough to endanger the ships of Vancouver and many other subsequent navigators, who had anchored there. And in proof of what he claimed and to show his faith in what he asserted, he not only cut and opened a level road a few feet above high-water mark around the eastern and northern base of Telegraph Hill from Clark's Point to North Beach, but bought numerous pieces of North Beach property, and induced his friends to buy still more, in expectation of a speedy and tremendous rise in prices, and also built Meiggs' wharf, two thousand feet long, running northward from near the end of Powell street to deep water in the direction of Alcatraz Island.¹

Though the cutting of the road around Telegraph Hill and the building of Meiggs' wharf and various other enterprises of Meiggs, among which was the building of Musical Hall on the south side of Bush street between Montgomery and Sansome, were really improvements of 1854, Meiggs had already previously so identified himself with North Beach and ingratiated himself with everybody interested in that quarter and in fact with the citizens in general, that in February, 1853, he was elected a delegate to a convention to revise the city charter—a revision which was never adopted—and in September, 1853, a member of the board of aldermen of the city council.² As an alderman, he represented North Beach with all his zeal and pushed

¹ Hittell's San Francisco, 209, 218, 219.

² Annals of San Francisco, 432, 461.

forward every scheme for its advancement that he could think of. Among other things he procured the passage of ordinances for closing up the old grave-yard between Stockton, Powell, Lombard and Chestnut streets and removing the remains of bodies buried there to Yerba Buena cemetery; but most of his work, and that in which he took especial interest, was the engineering of street contracts through the common council. The grading and other improvements of portions of Stockton street, Powell street from Clay to North Beach, Francisco street through the northern end of Telegraph Hill and various other streets in that neighborhood were all due to his abilities as a skillful municipal manipulator.¹

If North Beach property had risen in value like the water lots in Yerba Buena cove, or if the business depression of 1854 could have been retarded a few years, Meiggs might possibly have been able to sell out for vast sums of money and posed as a very great and good man. But unfortunately he not only incurred much larger liabilities than he had any right to expect he would be able to meet; but, when he found himself insolvent, instead of honestly acknowledging his errors, he attempted to save himself by forgery; and he went into the business with almost as much skill as he had shown in manipulating contracts. The method of paying for street work or that portion of it done for the city was at that time by warrants drawn on the city treasury. It was the duty of the controller, who was supplied with the necessary printed blanks, bound together in book form, upon the proper proof being made, to fill out the warrant with number, date, amount and name of creditor and, after procuring the signature of the mayor and attaching his own, to issue it as an evidence of indebtedness against the public street fund. This plan worked well enough for a period; but it was before long found very inconvenient to be continually procuring signatures; and to avoid this trouble it appears that the controller signed a number of blanks in advance and sent them to the mayor, who did the same, so that all the controller or his clerk had to do upon issuing a warrant was to fill in the number, date, name and amount. The mayor at that time was Cornelius K. Garrison

¹ Hittell's San Francisco, 219.

and his clerk Smyth Clarke, a particular friend of Meiggs, while the controller was Stephen R. Harris. As a contractor having much to do with street work or as an alderman, Meiggs had access to the controller's office and found means in some way or other to purloin or have purloined for him either a book or a lot of these blanks, signed by the mayor and controller in advance, and fraudulently filled them up or had them filled up to suit his own purposes.¹

There was at the time no money in the street fund; but the credit of the city was good; and these warrants were considered satisfactory security for at least half their nominal value. It was thus that Meiggs used them. He had always been a large borrower. That in fact was a part of his regular way of doing business. Almost from his start at North Beach he had never been out of debt and was always more or less pushed. Most of his time was spent in what he called "shinning around" after money; and, speaking jokingly of his labors in this direction, he said that it seemed unnatural for him to leave home in the morning without having to hunt up a loan of forty thousand dollars in the course of the day. But so long as he could furnish warrants for collateral security and pay interest, he could borrow money; and so long as he could borrow money, he could pay interest. Nobody apparently ever thought of doubting the genuineness of his warrants or taking them to the controller's office for examination or verification. It was perhaps noticed that he was willing to pay a larger amount of interest than the ruling rates—giving in some instances, it was said, as high as ten per cent per month and sometimes higher; but this, instead of awakening suspicion and leading to inquiry, only made those loaning him money demand larger rates and perhaps more security. According to report, his indebtedness for interest some months amounted to thirty thousand dollars; but he always paid it, and paid it promptly; and he was so frank and genial and liberal of promises and assurances and so great a favorite with everybody that he got to be called and was known far and wide as "Honest Harry Meiggs."²

¹ Hittell's San Francisco, 219, 220.

² Hittell's San Francisco, 220-222.

Having once entered upon the career of forging warrants in the manner stated, it was easy, and it seems to have become necessary for him to extend his operations in the criminal department to forging promissory notes and signatures. At least various charges of that kind were made after the exposure of his unquestionable frauds, and some placed the amounts at hundreds of thousands of dollars. But matters were bad enough even without the rumors. He found by the early part of the autumn of 1854 that he could not much longer escape detection. It is said that he was detected but had the art to prevent the persons, whose names were forged, from exposing him. Among other forged notes used by him, according to this account, was one for fifteen thousand dollars, purporting to have been drawn by J. Neely Thompson & Co. A member of that firm discovered its want of genuineness; but, under the influence of Meiggs' pleading, he not only concealed the fact but used expressions, which justified the holder of the note in believing it genuine—with the result that the firm afterwards had to pay it. Not long before that detection Meiggs owed the banking house of Lucas, Turner & Co. about eighty thousand dollars; and William T. Sherman, its manager, insisted on his reducing his indebtedness to twenty-five thousand dollars. Meiggs, finding the requirement peremptory, procured a mercantile firm doing business in San Francisco, the partners of which belonged in Hamburg, to accept for him for all except the twenty-five thousand dollars; and for that he gave a new note to the bank secured by a mortgage on real property and by city warrants as collateral. The acceptances, which were made payable within a month and a half, were duly honored; but it soon appeared that the security upon which the acceptances were given, was worthless; and not long afterwards the Hamburg house failed. As for the note for twenty-five thousand dollars, it turned out that the bank managed to hold the mortgaged real estate, consisting of the Meiggs dwelling house on the northeast corner of Montgomery and Broadway streets; but the warrants, being fraudulently issued, were worth nothing; and the bank lost on them about ten thousand dollars.¹

¹ Sherman's Memoirs, II, 105, 106.

In the meanwhile, before the truth came out, Meiggs, seeing exposure imminent and knowing that it would be dangerous to remain in California after what he had done, prepared for flight. Having under his control a small brig of several hundred tons burden, named the America, he supplied it with a liberal amount of provisions and stores, including wines and delicacies of various kinds; and telling his friends that he was going on a trip around the bay, he took his family and brother on board and on October 6, 1854, after several preliminary maneuvers, sailed out through the Golden Gate and in a short time disappeared forever from the horizon of California. It required not long to know that he had gone; and the holders of his warrants began to rush to the controller's office to inquire about the chances of realizing on the scrip. As the truth leaked out there was tremendous excitement. His victims numbered hundreds of persons and of every class, including bankers, merchants, city officials, mechanics, draymen, laborers and many women. He had apparently been very impartial, inasmuch as he preferred no friend over another, but took advantage of all that trusted him alike, not even excepting his washerwoman. There was no positive information as to the total amount of the indebtedness for which he failed; but it was said at the time to be about eight hundred thousand dollars—and the popular belief was probably not far from correct. His brother, John G. Meiggs, whom he took along, had only a month before, through his influence, been elected city controller, but had not yet entered upon his office. Whether his incumbency would have made much difference or long retarded Henry's exposure might be difficult to tell; but, in view of the general business depression before referred to and the financial storm that was coming on and could not be averted, it is not likely; and there is very good reason to believe that Meiggs himself knew quite as well if not better than anybody else that he had played his desperate game out to the very last venture and had irretrievably lost.¹

After cruising around in the Pacific for a while and visiting Tahiti, Meiggs sailed for Chili, which was supposed to be the California of the southern hemisphere. There he took employ-

¹ Hittell's San Francisco, 223, 224.

ment as overseer of a small gang of laborers on a railroad. His story had preceded him; and he was at first regarded with suspicion; but his extraordinary energy and business talents soon rendered him indispensable to the Chilian projectors. Though he had previously known nothing of railroad building, he in a little while advanced from being an overseer to becoming a contractor for the most difficult part of the line, then building between Valparaiso and Santiago, and managed to meet promptly all the enormous advances of money required for the work. It was reported that he had carried away with him from California about half a million; but he himself subsequently affirmed that he had landed in Chili with only eight thousand two hundred dollars and that, before he got on the high road to prosperity again, he had become so poor that he was compelled to pawn his watch. Whatever the truth may have been—and his own account is much the likelier of the two—he in the course of a few years developed into one of the greatest railroad builders in the world, with command of unlimited supplies of means, and was on every side recognized as one of the greatest benefactors of the country. When afterwards Peru undertook the construction of a system of railroads, he was invited to bid and became the principal contractor. He built eight hundred miles of track, much of it among the Andes and including some of the most difficult known in that line of enterprise; and it is said that he received on his contracts in Peru over a hundred millions of dollars. His wealth was practically inexhaustible and his fame filled all South America.¹

But neither Chili nor Peru could supply for Meiggs the place of California. He looked back with longing eyes upon his former home by the Golden Gate and the busy people of his own blood, who were building up the new American state upon the Pacific. For years, and probably from the moment he had left, he was anxious to return. Notwithstanding his forgeries and frauds, he still had many friends and some who, though they did not and could not deny the cold facts as they existed, still believed or pretended to believe that he was an unfortunate but

¹ Hittell's *San Francisco*, 224-226.

at heart honest and honorable man.¹ After he became very wealthy as the result of his railroad building in Peru, he bought up, through his agents, nearly all the notes and liabilities outstanding against him in California, though in most cases he paid only a small percentage on what he really owed; and in the winter of 1873-4, apparently with the idea of returning to San Francisco, he managed to procure the passage of a bill through both houses of the California legislature, ordering any indictment already found against him to be dismissed and making it unlawful for any grand jury in the future to indict him for any offense committed in this state prior to 1855. Newton Booth, the then governor, promptly vetoed the extraordinary enactment as unconstitutional and in every respect improper; but there was a sufficient number of legislators committed to its favor; and it was passed over the governor's head by a constitutional majority on March 28, 1874. Whatever may be said of the legislature, Meiggs seems to have been intelligent enough to appreciate the objections of the governor and remained in Peru. So far as known there was no stain upon his character for anything done in that country; and he died there, generally respected and universally regretted, in 1877.²

¹See Barry and Patten's *Men and Memories*, 236-238.

²Hittell's *San Francisco*, 226; Stats. 1873-4, 749.

CHAPTER VI.

BANK FAILURES AND DISASTERS OF 1855.

THE San Francisco failures of 1854, all more or less the result of overspeculation, were but the prelude to the business disasters of 1855. In some respects the former had been a prosperous year as compared with the latter. The treasure yield had been sixty-four millions of dollars, while in 1855 it was only fifty-nine millions; and the number of immigrants had been forty-eight thousand, while in 1855 it was only twenty-nine thousand. In 1854 the departures were twenty-four thousand and the gain of population consequently twenty-four thousand, while in 1855 the departures were twenty-three thousand and the gain only six thousand. But the financial storm, which had commenced in 1854, had gone on increasing in violence and extent; and, before it finally dissipated itself and disappeared in the upheaval and overturn of affairs occasioned by the vigilance committee of 1856, it left a path on every side strewn with wrecked concerns and crippled individuals. The insolvencies of 1854, as before stated, had been seventy-seven; but in 1855 they reached the large number of one hundred and ninety-seven, with liabilities, as figured in the schedules, of over eight millions of dollars.

It was very soon after the commencement of the year 1855 that the most stunning part of the general crash came on. This was the failure and breaking up of the banks that represented the largest interests and most numerous depositors in the state. The constitution of 1849, as will be remembered, prohibited the granting of any charter for banking purposes or the creation, issue or circulation of bank notes or any kind of paper to circulate as money; but it allowed what are ordinarily known as banks of deposit, having or at least exercising powers of exchange and loan. Of this latter class were all the banks—such things as bank notes of any bank in California being unknown. Even

before the adoption of the constitution there had been a few banks of deposit established. The first was the "Exchange and Deposit Office" of Henry M. Naglee and Richard H. Sinton, opened on January 9, 1849, in the building known as the Parker House on Kearny street opposite Portsmouth Square. Previous to that time deposits had been made with different mercantile houses possessing large safes, such as Mellus, Howard & Co., Cross & Co., Macondray & Co. and others at San Francisco, and Samuel Brannan & Co., Hensley, Reading & Co. and Priest, Lee & Co. at Sacramento. But merchants could of course do only a limited amount of banking business; and when Naglee & Sinton's exchange and deposit office opened, it had a large amount of custom. In July, 1849, Sinton retired and Naglee carried on the business alone. On June 5, 1849, Burgoyne & Co. opened a bank; in September B. Davidson followed suit; in October Thomas G. Wells, or Wells & Co. as the concern was soon called, did the same, and on December 5 James King, or James King of William as he called himself, finished the list of banks established that year.¹

In February, 1850, Drury J. Tallant opened a bank, afterwards known as that of Tallant & Wilde, and was followed in June of the same year by Page, Bacon & Co. and Felix Argenti & Co. In September, 1850, on account of one of the sudden business revulsions which were not uncommon in the early days, there was a financial panic and a consequent run upon the banks. The new institutions, as well as the old ones of Burgoyne & Co., Wells & Co., and James King of William, met all the demands made upon them; but that of Henry M. Naglee was compelled to suspend and did not again resume business. Between that time and the beginning of 1855 a number of new establishments were started, including those of Adams & Co., Palmer, Cook & Co., Drexel, Sather & Church, Sanders & Brenham, Corothers, Anderson & Co., Lucas, Turner & Co., Wright & Co. and a savings bank called that of Robinson & Co.² By far the most extensive and popular of these institutions at the later date referred to were those of Page, Bacon & Co. and Adams & Co.

¹ *Annals of San Francisco*, 512.

² *Annals of San Francisco*, 289, 513.

The original house of Page, Bacon & Co. had been started in St. Louis, Missouri, by Daniel D. Page and Henry D. Bacon, his son-in-law. When the California house was established, it was composed of the same members as the St. Louis house, with the addition of Henry Haight, David Chambers and Francis W. Page, a son of the senior partner, who had charge of a branch located at Sacramento. Haight was the manager of the California house, which, just before the failure about to be mentioned, was the most prominent in the state and was said to have nearly two million dollars of deposits. Next to Page, Bacon & Co. in extent and importance was the house of Adams & Co. The original of this institution was an express company of Boston, Massachusetts, of the same name, at the head of which was Alvin Adams. In 1849 he sent Daniel H. Haskell as a resident partner to establish a branch house in San Francisco, which was done in the latter part of that year; and in a comparatively short time Adams & Co., as an express firm, made larger shipments of gold-dust to New York than any other house. At first it did not extend its routes or agencies beyond Sacramento and Stockton, connecting at the former city with what was known as Freeman & Co.'s Express for the northern mines and at the latter with Newell & Co.'s Express for the southern mines. In the course of a year or two afterwards Adams & Co. bought out both Freeman & Co. and Newell & Co. and extended their routes throughout the state, having an office and agent in every town and mining camp of importance in the country.¹

Meanwhile the Californian firm of Adams & Co. had added to its business as expressmen that of bankers and, in furtherance of the general plan, had established a careful system of assays to ascertain the value of the different qualities of gold from different portions of the state, ranging from fourteen dollars and a half for that of Mariposa to nineteen dollars and a half for that of the lower Yuba, and the value thus fixed, less a moderate discount for costs and expenses, it was always ready to pay for the dust. To provide a currency for these purchases, it advocated and was chiefly instrumental in the production and introduction of the private gold coins, particularly those of J. G. Kellogg or Kellogg,

¹Sherman's Memoirs, I, 108, 109; Hittell's San Francisco, 227, 228.

Hewston & Co. and Wass, Molitor & Co. already mentioned. For these reasons and because of the confidence felt in the integrity and stability of the house, it was said that wherever it opened an agency the price of gold-dust rose; and, as in the absence of proper or convenient mail facilities, it carried almost all the letters and money not only in California but between California and the east, it did a very large business. On January 17, 1854, on account of some neglect in making and publishing the usual returns of shipments of treasure to the east, there was a run upon the bank in San Francisco; but the next day, after the neglect had been explained and after upwards of four hundred thousand dollars had been paid out without any indication of insolvency, the excitement ceased and the old customers gladly re-deposited what they had drawn out.¹ Later in the same year, the eastern house of Adams & Co. was merged into a joint stock company and the California house was reorganized with Daniel H. Haskell and Isaiah C. Woods as general partners and Alvin Adams as a special partner—the name with its prestige still remaining the same. James King of William, who about the same time discontinued business on his own account, was employed as cashier of the new banking department and Isaiah C. Woods succeeded Haskell in chief control of the express business, which was at that time supposed to yield a profit of something like fifty thousand dollars per month.²

About the beginning of 1855, the house of Page, Bacon & Co. of St. Louis, which had become involved by making advances to the Ohio and Mississippi Railroad, found itself on the verge of failure and, in the vain hope of saving itself, sent one of the partners to San Francisco to raise and transmit to it all the gold possible. Meanwhile the St. Louis house succumbed; but on account of various accidents the mail steamer, which would have regularly brought the news, was detained; and two steamers departed from San Francisco after the arrival of the partner and before the news of the failure came to hand. Those two steamers carried off about a million of dollars worth of dust, which had been sent on to the concern at St. Louis in ignorance

¹ Hittell's San Francisco, 228, 229; Annals of San Francisco, 511, 512.

² Hittell's San Francisco, 229; Sherman's Memoirs, I, 109.

of its insolvency and, as it proved in the end, was absolutely lost to the shippers. It was not until February 17, 1855, that the mail steamer with information of the failure arrived; and no sooner had the news spread than there was a violent run on the Page, Bacon & Co. bank in the granite block on the northwest corner of Montgomery and California streets. It was just then, when an able and adroit man was most needed at the head of the concern, that, according to the account given by William T. Sherman then of Lucas, Turner & Co., Henry Haight was found most wanting. The bank owed about two millions of dollars; and on the first day of the run about six hundred thousand were paid out. Possibly no one could have entirely averted the disaster; but it seemed as if Haight had become to a great extent demoralized; and, instead of promptly attempting to palliate the evil, he declared that all the banks would break and in effect that everything had gone to ruin. There appears to have been some feeble effort made to obtain help; but it was said that Haight refused or was unable to make a reasonable showing and that therefore Joseph L. Folsom, John Parrott and other capitalist friends of the house declined to indorse or furnish aid. Whatever the facts in these respects may have been, there was no assistance forthcoming; and still the bank remained open and the run continued.¹

On the morning of February 22, 1855, which might by concerted action have been made a holiday but that no one seemed willing to take the initiative, Page, Bacon & Co. sent around to all the chief business houses of the city a short printed notice to the effect that for "want of coin" they found it necessary for a short time to close their doors. The consequence of this was well understood by the other banks to mean that all would be tried; but they all, nevertheless, kept open during the day. The next night was one of sleeplessness and anxiety for the bank people. Before daylight next morning William T. Sherman, who as has been stated was manager of Lucas, Turner & Co., was rung up by Eugene Casserly, a prominent lawyer of the time, and informed that Adams & Co., on account of the condition in which it found itself, would not open that day and that there was

¹ Hittell's San Francisco, 229, 230; Sherman's Memoirs, I, 109, 110.

every probability of a general run on all the banks. The information was entirely correct; Adams & Co. did not open; the excitement in the public mind suddenly rose to fever heat and in some instances to paroxysmal height; nearly everybody, who had money in the banks, rushed to draw it out; the streets were full of rumors of more failures; people were wild with fear and uncertainty; and the day, February 23, 1855, was for years afterwards remembered and referred to as the day of the great crash, the Black Friday of San Francisco.¹

Affairs, however, were not so bad as they looked. It is true that Page, Bacon & Co. and Adams & Co. and, in addition thereto, Wright & Co. and Robinson & Co. failed and others were more or less crippled. But Lucas, Turner & Co., Palmer, Cook & Co and a few others managed to weather the storm. They succeeded in making timely arrangements and paid all demands, so that at the close of the day, in view of the fact that they not only met all claims presented but announced their readiness to pay all that could be presented, confidence was to some extent restored and a better feeling prevailed; and by next day depositors began to come back again. At Lucas, Turner & Co.'s, on the day of the run, an incident occurred, which was strikingly illustrative of the feelings of most of the depositors. A Frenchman, who had been nearly squeezed to death in getting to the counter and was offered his money, did not know what to do with it and manifested his dilemma by exclaiming to the teller: "If you got the money, I no want him; but, if you no got him, I want him like the devil." So with most of the others: they did not want their money; and, as soon as they were satisfied that the bank had enough to pay all, they were glad to re-deposit it.²

It was the failure of Adams & Co. that involved the largest number of people in loss and for the largest amounts, and made much the most noise. That of Page, Bacon & Co. was bad enough; but there was a reasonable cause, in the failure of the eastern house, for the disaster; and besides it had paid out substantially all the money it had. No one suspected or at least charged actual and deliberate fraud. It was different with Adams

¹ Sherman's Memoirs, I, 109-113.

² Sherman's Memoirs, I, 114.

& Co. That house, without waiting for the run, closed at once with considerable money and bullion on hand; and as this fund formed a fat prize for lawyers to fight about and as it was all or nearly all subsequently squandered, charges of all kinds of fraud and rascality were made not only against the original partners but against almost everybody who was ever in the course of a long and bitter litigation in any way connected with it. There can be little or no doubt that some of these charges were true and that some of the persons, who shared in the Adams & Co. spoils, were guilty of grave offenses. But it is difficult to tell how much, if any of the fraud and rascality that afterwards cropped out was deliberately planned or contemplated from the beginning. However this may have been, the methods of getting at and dividing the funds and despoiling those who were entitled to them were the developments of after occurring circumstances.

The plan of failure adopted by Adams & Co. was to cause an amicable—some said collusive—suit at law to be commenced in the fourth district court in the name of Adams as plaintiff against Woods and Haskell as defendants for dissolution of the partnership and the appointment of Alfred A. Cohen as receiver to take charge of their property. All this took place early on the morning of February 23, so that when the great run commenced on the other banks at ten o'clock, their usual time of opening, that of Adams & Co. was in the hands of Cohen as receiver and, as before stated, remained closed. The reason or at least the pretense given for this action was that under the law of California, as it then stood, and in the absence of any federal bankrupt act or any adequate state insolvent law that would secure an equitable distribution of assets, creditors of the firm could commence suits and levy attachments upon its property and that they would be entitled to be paid in full in the order of date of their levies, without reference to the claims of other creditors. To secure these priorities there would of course be a scramble and, while some would be paid in full, others would get nothing. It was to avoid this plain injustice that the suit for dissolution of partnership was brought and the receiver appointed, whose duty it would be to take and hold the property, as an officer of the court, in trust for all the creditors who might at the proper time come in

and prove their demands. And, in supposed pursuance of this plan, and possibly also on account of apprehensions of popular violence, Cohen, in the night succeeding his appointment, removed all the coin and bullion and other property of value from the vaults of Adams & Co. in Montgomery Block to those of Alsop & Co., commission merchants, on the south side of California street between Montgomery and Sansome. He also endeavored to obtain possession of all the cash and other property in the various branch offices throughout the state; but there were depositors and creditors in many of those places, who were unwilling to allow the property to be taken away. They therefore, with the assistance of the local officers of the law, hastily commenced attachment suits and seized the assets within reach and distributed them to the resident creditors, paying in many cases not only the principal debts but large sums in addition as costs of suit. At Sonora in Tuolumne county, the office and vault were broken open and the money and dust found there, amounting to forty thousand dollars, paid out by a committee of citizens to persons producing certificates of deposits or any kind of authenticated claims.¹

Within a few days after the appointment of Cohen as receiver, attachments by various creditors of Adams & Co. and for more than enough to exhaust all the funds in his hands were sued out and served upon him. Thereupon Woods, on behalf of himself and of Adams and Haskell, made an application in insolvency praying that the firm should be adjudged insolvent and that its funds, instead of being taken under the attachments, should be administered for the benefit of all the creditors. The court entertained the application and appointed Cohen temporary assignee; and not long afterwards there was a meeting of creditors, as provided by the statute of insolvency, and Alfred A. Cohen, Richard Roman and Edward Jones were elected permanent assignees. Upon this new appointment or election, Cohen as receiver asked for instructions how to act and was directed to pay over all the assets to himself and the others as assignees, which he did; and the funds were thereupon removed to the banking house of Palmer, Cook & Co. on the northwest corner

¹ Hittell's San Francisco, 230, 231; History of Tuolumne County, 132, 133.

of Kearny and Washington streets, of which firm Jones was a partner. Cohen then presented his accounts and vouchers as receiver and asked to be discharged from further duties or responsibilities as such officer; and an order was entered discharging him. He then asked permission to absent himself from the state for three months and departed for New York, leaving the business of Adams & Co., so far as he was concerned with it, in the hands of his counsel and the assets including books and papers in the hands of Palmer, Cook & Co., or Jones, his co-assignee.¹

After the appointment of the assignees and the removal of the funds to the house of Palmer, Cook & Co., attachments, amounting as before to a much larger sum than the assets, were served upon that house as well as upon the assignees; and the suits, in which the attachments were issued, proceeded to judgment. About the same time Delos Lake, the judge of the fourth district court who had appointed Cohen receiver and before whom all the proceedings up to that time had taken place, resigned his office and John S. Hager was appointed by the governor to succeed him. Hager, who assumed office on July 2, 1855, taking a different view of the law from Lake, held that a bank could not go into insolvency. He therefore declared the proceedings in insolvency void and revoked the order granting Cohen his discharge as receiver. He then removed Cohen as receiver and on October 2, 1855, appointed Henry M. Naglee in his place. Naglee at once, upon his appointment, demanded the possession of the assets from Roman and Jones; but they declined for various reasons, among which the principal was that Palmer, Cook & Co., who had been garnisheed for sums exceeding their amount, had a right to hold them for their own protection and refused to give them up. They also urged that the suit for dissolution and appointment of the receiver was designed to delay and defeat creditors. When Cohen returned from New York, a similar demand was made upon him; and he replied in substantially the same manner and to the same effect. Naglee then commenced a suit against Cohen, Roman and Jones and obtained a judgment against them for the sum of two hundred and sixty-nine thousand

¹ Adams *vs.* Haskell and Woods, 6 Cal. 113.

dollars, the amount of assets supposed to be in their hands; and, upon their continued refusal to pay over to him as receiver, as ordered by the court, they were cited for contempt. On January 5, 1856, while the controversy was going on, Cohen, for the purpose of meeting his family, whom he had left in New York, made an attempt to leave the state and for the purpose of avoiding observation and detention concealed himself among the machinery in the hold of the Nicaragua steamer Uncle Sam, which was about to leave the wharf for San Juan del Sur. But before the steamer got away a warrant for his arrest was placed in the hands of Deputy-sheriff John Harrison; and he was by that officer arrested and thrown into prison. Jones was also arrested and imprisoned for disobeying the order of the court.

The cases of the two prisoners were somewhat different. Jones purged himself of contempt by handing over all the assets that were under his control and was released. But Cohen, in addition to the same alleged contempt for which Jones had been imprisoned, could not or would not answer in regard to certain moneys which were said to have been abstracted from the assets about the time of the failure; and, besides, he claimed the right to retain a sum of ten thousand dollars for his commissions and disbursements, which the court would not allow. On February 27, 1856, while the controversy was pending and attracting great public attention and while Cohen was in custody, a couple of workmen discovered a canvas bag containing several large account books, which had been washed in by the tide at North Beach near the end of Montgomery street. Upon investigation, they proved to be books of Adams & Co. including the last ledger and cash book. They had apparently been in the water some days and were badly damaged; but one of the most significant facts about them was that the pages of entries concerning the transactions of February 21 and 22, just previous to the failure, had been torn out. How they got into the bay no one knew or, if he knew, was willing to tell. Cohen's enemies claimed that they ought to have been in his custody and that he must have had something to do with attempting to destroy them. On the other hand Cohen's friends charged that the books had been thrown into the bay by his enemies for the purpose of

creating prejudice against him. Whatever may have been the true state of the facts, the books, when examined, did not appear to throw much light on the case or show what amount of money, if any, had been made away with and not accounted for. In the meanwhile various applications, designed to quash the proceedings before Judge Hager and release Cohen, had been presented to the supreme court. Of these several were ineffective; but among them was a writ of certiorari and a writ of habeas corpus, which in the course of time were more successful.¹

The supreme court at that time consisted of Chief Justice Hugh C. Murray and Justices Solomon Heydenfeldt and David S. Terry. In the early summer of 1856, when this litigation would have regularly come up for adjudication before that tribunal, Heydenfeldt, who had in 1852 obtained from the legislature an indefinite leave of absence for six months, had left the state, while Terry, who had seen proper to plunge his bowie-knife into the neck of Sterling A. Hopkins, as will be more fully related further on, was in the hands of the vigilance committee of San Francisco, closely confined and in imminent danger of hanging. Murray could not sit alone; and Cohen remained in jail. In the early autumn, however, after Terry's release by the vigilance committee, the cases were taken up and the contempt proceedings set aside in the certiorari case on the ground that Hager's court had exceeded its jurisdiction in making the order. In the habeas corpus case Cohen was discharged from custody on the ground that the order of arrest, on which he was held, had been prematurely and improperly issued; on the further ground that the commitment to jail for his refusal to pay over the ten thousand dollars did not show that he was able to do so, and on the still further ground that he had showed by his own affidavit, which was not contradicted, that it was impossible for him to get them from Palmer, Cook & Co.²

The result of the whole business, between the courts and the lawyers, was that the assets became the subject of a general scramble, in which some of the creditors got much more than their share but most of them much less. Palmer, Cook & Co.

¹ Adams *vs.* Haskell and Woods, 6 Cal. 113, 316; Ex Parte Cohen, 6 Cal. 318.

² Hittell's San Francisco, 232; Stats. 1852, 287; Adams *vs.* Haskell and Woods, 6 Cal. 113, 316; Ex Parte Cohen, 6 Cal. 318.

claimed to be creditors to the extent of five hundred and sixty thousand dollars and were among those who secured most of what was left, after paying lawyers and law expenses. The litigation lasted for seven or eight years and then came to an end because it would no longer pay to fight. It was like a fire that raged until there was nothing left to feed it. Everything from the start had apparently been done wrong or at least had turned out bad; and to a large part of the community, and particularly those who lost, it seemed that there had been a deep-laid scheme of swindling from the beginning. A storm of obloquy, the earlier mutterings of which had much to do with the starting and the subsequent strength of the vigilance committee that came soon afterwards, for years followed Isaiah C. Woods, Palmer, Cook & Co. and others, who were supposed to be more or less involved in what was generally denounced as a deliberate and gigantic fraud. All sorts of charges were made against everybody in any way or on either side connected with the management of the assets of Adams & Co.; but, though these charges were grave, no criminal prosecution was ever started or proofs brought forward; and the whole business in time became a sort of confused story, something like a half-forgotten dream, that it was impossible fully to understand.¹

At the time of the failure of Page, Bacon & Co. of St. Louis, the news of which as has been seen reached San Francisco about February 17, 1855, the quickest means of communication between California and the Atlantic states was by the Pacific mail steamers and the Panama railway. This railway had been projected and work on it commenced as early as 1850. There were no great engineering difficulties to be encountered in its construction; but for various reasons its completion was delayed; and it was not until January 23, 1855, that the first through train passed over it. The length of the road between its termini, Aspinwall and Panama, was only forty-eight miles. Much of the route ran over nearly level ground and the highest elevation did not exceed three hundred feet above tide water. There were no large rivers to cross, long tunnels to bore, deep cuttings or high fillings to make. The projectors, who were chiefly New

¹ Hittell's San Francisco, 232, 233; Naglee *vs.* Palmer, 7 Cal. 543.

York capitalists, expected to finish the road in a couple of years and at a comparatively moderate cost. But they encountered unexpected obstacles. The natives were ignorant, indolent and altogether unreliable, so that labor had to be brought from a more temperate zone; and the mortality among the imported workmen, especially in the swamps near Aspinwall and along the Chagres river, was excessive. The dread malarious disease, known generally as Panama fever, which in one or other of its forms attacked nearly every stranger that remained long on the isthmus and was so often fatal in its results, became an unexpectedly important factor in the accounts of the company; and the costs and expenses of construction mounted up so rapidly as to frighten the New York millionaires Gardiner G. Howland, William H. Aspinwall and others, who had been induced to take hold of the enterprise. At length, however, and chiefly with the aid of a lucrative contract for carrying the United States mails over the road, which had been procured for the company by United States Senator William M. Gwin and which assured in any and every event a large revenue, the line—after a delay of five years instead of two and an expenditure of seven and a half millions of dollars instead of a million and a half as was at first contemplated—was finished. Then commenced that great business in passengers and fast freight which rendered it one of the most important and interesting national highways in the world and continued to be such until the completion of the transcontinental railway in 1869 diverted most of its traffic.¹

As soon as the railway was finished and trains ran regularly between Panama and Aspinwall, so that passengers were not delayed more than a few hours or not exceeding a day or two upon the isthmus, either coming or going, the voyage from New York to San Francisco or from San Francisco to New York began to be regarded as a comparatively pleasant trip. It was expensive, for the reason that the railway charged very heavy fares and the Pacific Mail Steamship Company not very light ones; but those who were going to California, and especially those who were living in California in those still early days, cared little or nothing about expenses. In 1855, however, on

¹ Hittell's *San Francisco*, 233, 234.

account of the business depression and the diminished yield of the placer mines, the immigration was only about twenty-nine thousand persons or not much more than half as large as that of 1854; and the figure kept decreasing till it reached twenty-three thousand in 1857, its lowest notch; while the departures for 1855, 1856 and 1857 amounted to twenty-three thousand for each of the first two years and seventeen for the last—almost as many as the departures of 1854, which had been twenty-four thousand. But there was considerable difference in the general character and objects of the travel coming and going. Those who came generally came to stay and make their homes in California; and for this reason the number of women and children rapidly increased, while those who departed generally went on visits with intention of returning. In previous years few came with any idea of remaining and hardly any left except to stay away. It rarely happened that any one, who came to stay, ever left for good; but it was not at all an unfrequent case for those, who left with an intention of never coming back, to change their mind and return to stay. It was about this time that Californians in general began to think the country preferable as a place of residence to any other part of the United States and, for that matter, to any other country upon which the sun shone; and their opinions in this respect have been growing stronger and stronger, year by year, ever since. Thus though the growth of California in number of people after the building of the Panama railway was for a few years slower than it had been before, its population became more settled and permanent; and as those who made visits usually went only for short periods and with plenty of money to spend and always with a readiness and zeal in expressing their favorable opinions about the country and the broad-minded and liberal people who were building it up, a much wider and better knowledge of California became spread abroad. These enthusiastic visitors, it is true, got the name of telling large stories; and in some quarters they were charged with drawing largely upon their imaginations; but by degrees, as it was found that their accounts of supposed wonders were not overdrawn, intelligent and well-informed persons all over the world came to know and recognize California, new and unculti-

vated as it was, as a marvelous land or, to use the expression most commonly applied, as "a glorious country."

The success of the Pacific Mail Steamship Company, and particularly after the opening of the Panama railway, enabled it to increase and justified it in increasing its service on both the Pacific and Atlantic sides. The original three steamers on the Pacific side, known as the California, Oregon and Panama, each of which rendered long and efficient duty, were followed by other, larger, more elegant and more commodious vessels; while on the Atlantic side, though there was not much improvement in quality, a larger number of steamers was always on hand to supply all demands for passage or freight. As the Pacific, both by name and nature, was a much more quiet and gentle ocean than the Atlantic, the vessels that were to run upon it could be safely built higher above the water line; and advantage was taken of this fact to make them, in comparison at least with those running between Aspinwall and New York or New Orleans, veritable ocean palaces. It had been a part of the original contract of the company, as has been seen, to carry a semi-monthly mail to Panama and a monthly mail from Panama to Oregon; but as soon as there was a sufficient number of steamers in the Pacific, a regular communication of two steamers a month was established and kept up. The distance from New York to San Francisco by way of Panama was about fifty-seven hundred miles;¹ and it required on an average about twenty-five days to make it. That was what was called schedule time; and at the expiration of that period from the time the Atlantic steamer left New York, the Pacific steamer communicating with it at Panama was due and expected at San Francisco. For ten years and up to the establishment of the pony express in 1860, all the eastern mails, and for nearly twenty years and up to the opening of the transcontinental railway in 1869, nearly all the eastern mails came by mail steamers; and their regular semi-monthly arrival on that account, as well as on account of passengers and fast freight, as may well be imagined, was a very important event in which every one was more or less interested. It was usual the moment the in-coming vessel was sighted from the lookout

¹Johnson's California and Oregon, 10, 94.

station on Point Lobos to telegraph to the station on Telegraph Hill, where a flag was run up, and to the Merchants' Exchange, where another flag was run up and the information placarded and sent around to the various newspaper offices. On a very clear day a steamer could be seen nearly thirty miles off, so that its approach was sometimes known in the city several hours before its arrival; but from the moment it was telegraphed there was always more or less curiosity and speculation, as to the news it would bring from the world on the other ocean, and preparation and necessary arrangements for the new accession to the population that was about landing. The newsmen were on the alert to get ahead of their competitors in procuring and distributing the eastern journals, while the newspapers, which were usually supplied before the vessel reached the dock, gathered all their strength to furnish their readers with a timely and complete synopsis of every new occurrence it was supposed desirable to know and, in case of matters of very special interest, to get out extra editions. Meanwhile carriages, baggage wagons, hand-carts, porters, business men of various occupations, among whom were invariably a very great number of loud and noisy hotel-runners, policemen, friends of arriving passengers and spectators of different kinds and grades, crowded towards the steamer-wharf and, by the time the vessel drew up and made fast, formed a dense and usually good-natured mass, vastly fond of a bright saying or piquant joke and almost always laughing, whooping or hurrahing.

On the other hand, when the mail steamers left, which was for years on the fifth and twentieth of every month, there was also almost invariably a large crowd, but not so noisy or demonstrative. There were no hotel-runners; but fruit, nut and sweet-meat venders took their place. There was some joking and hurrahing; but it was mixed with more or less of sadness in seeing the departure, even for a time, of many strong and stalwart men, whose presence was a part of the wealth of any country where they might be, and particularly if they were friends or acquaintances. But there was another and perhaps still weightier reason why there was less hilarity and more soberness on the occasion of an outgoing than of an incoming mail

steamer. The outgoer always carried away a very large sum of gold, amounting usually to about two millions of dollars, consisting of dust, bullion or coin, intended to meet drafts, bills and notes in favor of creditors and other recipients in the eastern states and Europe. On account of these regular fortnightly shipments, it became a custom with merchants to make collections, so as to be able to fill out their remittances, on the days before the sailings of the mail steamers; and these days from that circumstance got to be called "steamer days." To a very great extent the business of the city and much of the country was regulated by these regularly recurring and briefly separated steamer days. Unless otherwise stipulated, it was understood and expected that payments of money borrowed or for goods sold were to be made on the next steamer day; and it was a point of mercantile honor to be prepared by that day to pay off indebtednesses. As it was the rule, in order to enable this to be done, to collect dues at the same time, no one could complain of being dunned on steamer day; and the more promptly and cheerfully the demand was met the better was the standing of the payer. The effect of this practice upon the business and business community was very marked. It served to make it and them quick and prompt, rapid in figuring and almost instantaneous in coming to conclusions. Dispatch was one of the special characteristics of the people and times; and nearly everything in the way of law and custom was either a cause or a result of this characteristic. The extraordinarily short periods of the statute of limitations—shorter than those of any other state and the effects of which, as has been noticed, were much more important than has been commonly supposed; the rapid fluctuations in the market, caused by irregularities in the supply and demand of merchandise, and the peculiarities of the general trade, consisting chiefly of the touch-and-go system of auctions—all and many other circumstances contributed to the same end and rendered steamer day, whether considered as a cause or an effect—and it was perhaps almost as much one as the other—a very remarkable and interesting Californian institution, the influence of which is more or less felt in business circles to this day.

In the meanwhile the natural effect of the breaking of the banks and of the failures of 1855, all of which were the legitimate results of what had gone before, was to throw affairs of every kind into a very feverish and unsettled condition. Though improvements of communication with the eastern states advanced with reasonable speed and though business methods under the peculiar circumstances had reached a high state of perfection, still there was not as yet such a connection between monetary and mercantile matters on opposite sides of the continent as could prevent or much assuage the severity of the financial storm that had broken out in San Francisco and for that matter in all California. The troubles were more or less only local; but there was not for that reason any relief or prospect of relief to be looked for. The Californians had brought them on themselves or, more properly speaking perhaps, they had carelessly allowed them to come on. Ruin, which had struck down so many, seemed to stare everybody in the face. There was no confidence felt and no faith reposed in anybody or anything. No intelligent step was taken to remove the evils that had come or to stay the approach of those that were coming. The tempest had broken forth and nothing was done, or perhaps could well be done, but to let it rage as it pleased and blow itself out.

CHAPTER VII.

VIGILANCE COMMITTEE OF 1856.

THE crimes of those who brought on the financial storm and devastation of 1855, injurious as they were, did not compare in wide-spread and baneful effect with those of the political and social corruptionists in San Francisco. These included not only the usual criminal classes, such as murderers, robbers, burglars, forgers, thieves, gamblers, prostitutes, prize-fighters, bullies and vagabonds in general, but also regular experts in ballot-box stuffing and, worst of all, those kinds of politicians who employed, abetted and, by their recognition, gave encouragement and a sort of character to manipulators of fraudulent elections. There probably had never been in the United States a deeper depth of political degradation reached than in San Francisco in 1854 and 1855. Various causes contributed to this state of affairs. In the first place, in the unsettled condition of society and business and the feverish rush for gold, few or none of the respectable classes of the community took sufficient interest in public matters to attend nominating conventions, go to the polls, or sit on juries. The management of municipal affairs consequently—and for that matter of national affairs also in so far as they depended upon municipal representation—fell into the hands of men of the vilest character, who had served an apprenticeship in New York and other hot-beds of political corruption in all the arts of defrauding the people out of their choice in the nomination of candidates and the election of officers. Nominating conventions, as expressions of public opinion, became a farce; and in cases where they were not a farce and the purposes of the corruptionists could not otherwise be effected, resort was had to bribery and fraud at the polls and, when necessary, to open violence. An honest man's vote was worthless; but, if it could under any circumstances be counted as at all effective,

care was taken to prevent its being thrown. Gangs of bullies were engaged, whose very touch and presence were pollution; and, if they were not sufficient to keep the voter from the polls, rowdies were employed to foment quarrels and jostle him out of the way. Clubs were openly formed for the purpose of selling votes to the highest bidders; and bodies of men frequently marched from precinct to precinct on election day, repeating their votes and swearing them in by perjured testimony. But what may be called the very perfection of election fraud and rascality was reached in the invention and at length frequent use of what were called the "double improved back-action ballot-boxes," which were so constructed with false sides that any number of tickets could be hidden in them in advance, exposed at the proper time, and counted so as to make majorities exactly as might be desired.

In the next place, as the county and municipal officers chosen under such a system could not be otherwise than usually bad, their subordinates were usually untrustworthy and unreliable. Though some of the judges were honest, the general rule was that they strained the law very greatly in favor of those to whom they owed their elevation; and, as deputy sheriffs and policemen, with the exception of a few shining examples of integrity, were in general appointed to reward partisan and in some cases fraudulent services, they were as a rule grossly inefficient and corrupt. Their honor consisted in adherence to their party; their virtue in subserviency to their clique; their labor in securing the success under any and all circumstances of their leaders. They were not only the friends of criminals, but they were criminals themselves. Instead of protecting the community against scoundrels, they protected the scoundrels, or such of them as had influence, against the community. They winked at and sometimes aided escapes; and, if their objects could not thus be effected, they assisted in removing witnesses, destroying evidence or packing juries. On account of the multitude and magnitude of the crimes committed and the confidence with which criminals could submit to arrest and investigation, the police court became the most important judicial tribunal in the city and the ablest attorneys in the state regularly attended

its sessions. Under the best of circumstances the law is full of technicalities; but the technicalities of the old police court bar of San Francisco were marvelous; and in cases where they did not win in the lower court they were almost sure to carry everything by storm on appeal. Over a thousand homicides had been committed in San Francisco between 1849 and 1856 and only one legal execution took place—that of a miserable Spanish murderer, named José Forni, who was hanged on Russian Hill in presence of from six to ten thousand spectators on December 10, 1852.¹ It was said in December, 1855, that in the state at large during the preceding eleven months five hundred and thirty-five homicides had occurred and forty-nine hangings by mobs, but only seven legal executions.²

Besides the above mentioned causes of the political and social degradation of the times may also be mentioned the gambling of over-speculation and the decline of production of the placer mines after 1853, which led to what was known as the commercial panic of 1854 already noticed. Though extravagance in some articles of luxury continued, consumption of staple goods decreased; the prices of merchandise went down; many business houses were vacated; interest fell; many merchants failed, and insolvencies accumulated in all directions. The flight of Henry Meiggs in the autumn of 1854 and the rottenness in municipal and business affairs thereby brought to light produced a profound effect; and the extensive and disastrous failures of Page, Bacon & Co. and Adams & Co. in 1855 drove the community into a sort of frenzy of insecurity and uncertainty, full of terrors and almost without hope. The law proceedings, which followed the great failures and the frightful ramifications of corruption, extending into almost every walk of life, which were becoming more and more exposed as new developments proceeded, caused the better classes of citizens to despair of improvement and to recall to their minds the old fables of cities that had become so wicked as to be cleansed and purified only by fire—and by fire so fierce as to entirely destroy them.

It was in the midst of this condition of things that James King

¹ Annals of San Francisco, 409, 410.

² California Chronicle of December 20, 1855.

of William commenced the publication of the Evening Bulletin newspaper. This remarkable man was a native of Georgetown in the District of Columbia, born on January 28, 1822. In 1841 he entered the banking house of Corcoran & Riggs in Washington City as a clerk, and married in 1843. He assumed the patronymic "of William," in accordance with a not uncommon custom in Virginia, to distinguish himself from other persons called James King. Having no wealth and feeling his responsibilities as the head of a rapidly-increasing family, he applied himself too assiduously to his business; and the result was that he broke down and was obliged for renewal of health to seek a different climate and entirely change the scene of his activity. This was in the early part of 1848. His elder brother, Henry King, had already for some time been on the Pacific coast in the employment of the government under Fremont and was enthusiastic in his praises of the country; and he was at that time one of a disastrous exploring expedition, gotten up by Fremont, in the course of which in February, 1849, near Santa Fé, he lost his life—some said by murder and others said by exposure. So much had been said about California by Henry that James resolved upon a trip hither, as one likely to afford the recuperation he needed as well as keep him in more easy communication with a brother, whom as an elder he had always looked up to as a model and guide. He accordingly in May, 1848, took passage in a sailing vessel from New York for Cartagena in New Granada, intending thence to proceed as opportunity might offer. The fact that there was to be peace with Mexico, though the ratifications of the treaty had not yet been exchanged, was well understood, but nothing was as yet known in the eastern states about the discovery of gold.

From Cartagena King made his way to Panama and thence to Callao in Peru, and thence proceeded to Valparaiso in Chili, which place he reached on July 26, 1848. By that time everybody had become excited about the gold in California; and King, taking advantage of the sailing of the American bark Undine with adventurers for San Francisco, secured passage and arrived there on November 10, 1848. He proceeded at once to the mines on the South Fork of the American river but, without

remaining long, returned to Sacramento and entered the mercantile firm of Hensley, Reading & Co. of that place as a partner and book-keeper. From there, in the autumn of 1849 he returned to San Francisco and on December 5, 1849, in conjunction with Jacob R. Snyder, established and opened the banking house of "James King of Wm. & Co." on the southwest corner of Montgomery and Washington streets. On March 5, 1852, Snyder withdrew from the firm, and King then carried on the business alone, under the name of "James King of William." He succeeded in inspiring confidence in his integrity and made money as well as reputation. In May, 1851, his family, then consisting of a wife and four children, joined him; and, with brilliant prospects ahead, he erected for them a fine residence, kept horses and a carriage and lived in a style befitting his position as a prosperous banker. He was always exceedingly outspoken in the expression of his sentiments; and in various positions, and particularly as foreman of the grand jury of San Francisco in 1853, he was called upon to take a prominent and positive stand in reference to the moral and social abominations and the political corruptions which were reeking on every side of him. He was not found wanting at this task: on the contrary he got the reputation of, and became widely known as, a man, not only of honor and integrity but also of intelligence and courage. Though he had many bitter enemies, as under the circumstances was to be expected, he had also many devoted friends, who implicitly relied upon him and whose good opinion was worth more, even in a business point of view, than much gold. Unfortunately for him his employees were not all as honest, or at least as prudent, as himself; and one of them, by investing in certain mining and ditch property in Tuolumne county, involved him in difficulties, which threatened and in fact brought him to the verge of financial ruin.

In June 1854, while King was in this position and suffering great anxiety for fear of not being able to meet his engagements, Isaiah C. Woods of the express and banking house of Adams & Co. proposed that, if he would turn over all his assets and enter the service of Adams & Co., that firm would assume all his liabilities and pay him a salary of a little over a thousand dollars

per month. He accepted the offer, supposing the house to be perfectly solvent; and the house on its part readily ratified the bargain, knowing that King's assets with good management would be more than enough to meet all his liabilities and that his reputation for honesty would be worth much more than any possible loss by employing him. The contract was an employment for two years from June 27, 1854. For a short time everything went on well. But by degrees he became very much dissatisfied with Woods' methods of business and also with several of Woods' friends. One of these was Alfred A. Cohen, against whom he appears to have felt a great antipathy. In a few days after entering the house King expressed his dislike of Cohen; but, on Woods' representations that Cohen was a good friend of Adams & Co., King agreed to suppress his feelings. Sometime in August, however, according to King's statement, a conversation occurred in reference to a sale of gold-dust said to have been made by Cohen, as broker for Adams & Co., to Page, Bacon & Co.; and the result was very great ill-feeling between the two men. Both were evidently very hot-tempered.¹

On July 14, 1855, a few months after the failure of Page, Bacon & Co. and Adams & Co. and the extensive losses among all classes of the people caused thereby, and while very great excitement prevailed in reference to the frauds that were supposed to have been perpetrated in the management of the Adams & Co. affairs, King published a newspaper card to the effect that Woods had on more than one occasion, in his presence and the presence of others, said that Adams & Co. made a hundred thousand dollars a year out of sales of gold-dust to Page, Bacon & Co. But he added that he himself had not had the slightest idea, until within five or six days, of any improper means having been made use of by Woods to effect such sales, which he then charged had been the case. Three days afterwards King and Cohen met in front of Barrett & Sherwood's jewelry store on Montgomery street; and after a few heated words in reference to King's card, an encounter took place between them in which neither was hurt, but Cohen considered himself insulted. Later, on the same day,

¹Card of James King of William in San Francisco newspapers of July 14, 1855.

evidently taking that view of the subject, and yielding to the then prevalent opinion on the subject of dueling, Cohen sent King a challenge. The challenge was carried to King by John K. Hackett; and the next day King replied, by letter to Hackett and through the newspapers, declining to fight and giving as his chief reasons his duty to his family and his opposition to dueling on moral grounds. At the same time King announced that while nothing could induce him to change his principles upon the subject of dueling, his conscience was perfectly easy as to the right and propriety of defending himself if he should be assaulted.¹

This open refusal on the part of King to fight a duel, being the first instance in California in which a prominent man born south of Mason and Dixon's line had taken that stand, at once raised him much higher than he stood before in the estimation of those classes of the community who were opposed to dueling. Though southern men still adhered to the "code," as it was called, most northern men were opposed to it. The general public sentiment of the community was violently opposed to it, as was indicated by the adoption of the provision of the constitution of 1849, which declared that no citizen, thereafter fighting a duel or sending or accepting a challenge or who should act as second or knowingly aid or assist in a duel, should be allowed to hold any office of profit or enjoy the right of suffrage,² and the statutes of the legislature of 1850, making the same acts felony punishable by imprisonment in the state prison.³ Such being the case, though little respect was paid to the constitution or the statute by public men, King's stand on the subject, on account of its accordance with the law and its being recognized as dictated by enlightened principle, was considered as doing him great credit and gained him very great applause. Nearly all the newspapers of the day heartily praised it; and no one dared to openly disapprove obedience to the constitution and statutes. Though some duels have since taken place and some men still adhere or profess to adhere to the code, few or no duels between

¹ Correspondence in San Francisco newspapers of July 19, 1855.

² Constitution of 1849, Art. XI, sec. 2.

³ Stats. 1850, 233.

otherwise respectable men have taken place for a number of years; and James King of William, more than any other man, is entitled to the praise of having started the movement that put a stop to the barbarous practice.

After the failure of Adams & Co., King, having lost all his property and given up every particle under his control, including all right to a homestead, attempted to start business again as a banker in connection with Henry Reed, who had also been a former employee of Adams & Co. But he soon found the association with Reed impracticable; and on June 29, 1855, after not quite four months' connection, he dissolved partnership and went out of the business permanently. Meanwhile the Adams & Co. affairs and the tremendous frauds connected with them continued to attract public attention and filled the newspapers day after day; and in the course of developments King was repeatedly called upon to write articles, publish cards, or make explanations. His success in these and a consideration of the effect produced by his plain, direct, incisive, Anglo-Saxon sentences upon the public mind seem to have suggested to himself and some of his friends the feasibility of starting a newspaper. He accordingly made the proper arrangements and on the evening of Monday, October 8, 1855, issued the first number of the Daily Evening Bulletin, a small sheet of four pages, ten by fifteen inches in size. In his salutatory, he said that necessity, not choice, had driven him to the experiment and that no one could be more fully sensible than himself of the folly of a newspaper enterprise as an investment of money. "But," he continued, "we invest no money of our own (for we have none); and only a few hundred dollars, generously advanced us by a few friends, is all that we have risked in the enterprise. If successful, we shall be able to feed, clothe and shelter our family in San Francisco, where the school facilities are such as in justice to those, who have claims upon us, we are unwilling to forego." He added that whatever might be his own individual political bias, he should, as conductor of the newspaper, act independently of either of the political parties dividing the state; but that in being independent he by no means intended neutrality or indifference to public affairs; that in all matters of public interest he should advocate such measures as might seem

to him most conducive to the public good, and that his best endeavors should be put forth to present a "readable paper" for all classes.¹ In the next issue, he had something to say in reference to how industrious persons, thrown out of employment by events beyond their control, and particularly those having families dependent upon them for support, might obtain employment, and then, in acknowledging the notices taken of the first appearance of the Bulletin by the editors of the other San Francisco newspapers, said, "Well, gentlemen, some of you we thank; and some we don't. We will endeavor so to conduct our columns as to give no good grounds for complaint. It has been whispered to us that some parties are about pitching into us. We hope they will think better of it. We make it a rule to keep out of a scrape as long as possible; but, if forced into one, we are 'thar.' *Entiende?*"²

On October 11, 1855, in his fourth issue, he paid his respects to the banking firm of Palmer, Cook & Co., and its connection with the affairs of Adams & Co. He called the members of that firm by name and handled them without gloves. His language was not as choice, nor his denunciations as well rounded and rhetorical as they might have been. But they were plain and showed that he was in earnest and meant all and more than all he said. He charged them with being among the most corrupt men in the country and guilty of all manner of frauds, political, business and social. He termed them the "Uriah Heeps of San Francisco bankers," "sneaking, surety-giving money lenders," and "political wire-pullers." "They are unlike other bankers," he said, "because forevermore they are at some scheme to elect, not good men to office but their own or such as can be so fashioned, and then, becoming bondsmen for them, get hold of public money with which to bribe and corrupt other public officers, both state and federal. Now, no banker, elsewhere than in California will go on the bond of his best friend if he can avoid it, because it injures his credit. But this firm do not wait to be asked even; but, as soon as an election is announced,

¹ Daily Evening Bulletin of October 8, 1855.

² Bulletin of October 9, 1855. "Entiende"—Spanish for "Do you understand?"

they *hasten*—greedy of the tempting ‘monish’ and with brazen impudence—they *hasten* to the successful candidate and *urge* him to accept their name!”¹

On October 12, having made a misstatement the evening before as to Palmer, Cook & Co. being bondsmen of Thomas J. Henley as postmaster of San Francisco, King publicly acknowledged that he had been misinformed and apologized for his error. On October 16, he made his first attack upon David C. Broderick, whom he called David Catiline Broderick and charged with the most unholy and ungodly efforts to have himself elected United States senator for the purpose of accomplishing selfish ends. He accused him of complicity in the Jenny Lind theater swindle, of robbing the city and state in various ways, of spreading crime and immorality, of corrupting elections and rendering powerless the voice of the people at the polls. On the next day he again returned to the same subject, repeated the name Catiline, and charged Broderick with election frauds of all kinds and selling offices to the highest bidders—stating, among other things, that five thousand dollars were known to have been offered for an office, the legitimate revenue of which was only about six thousand dollars. The day after, he showed that Palmer, Cook & Co. were on official bonds for upwards of two millions of dollars; announced that he intended to examine into the conduct of those in authority who accepted such bonds, and said that in a few days he would make certain parties writhe under the agony to which his exposures would subject them. “We have every confidence,” he added, “that the people will stand by us in this contest; and, if we can only escape David C. Broderick’s hired bullies a little while longer, we will turn this city inside out but what we will expose the corruption and malfeasance of her officiary.”² And so he went on, day after day, making new attacks and repeating old ones, charging fraud and corruption wherever he imagined he could see any, not hesitating to accuse judges and other officials, arraigning men of every class by their names, and handling all without fear. In less than a month King had also commenced an attack upon the other newspapers

¹ Bulletin of October 11, 1855.

² Bulletin of October 18, 1855.

of the city, charging them with want of courage, honesty and decency; and in a very short time he had certainly succeeded in what he is supposed to have meant by "turning the city inside out" and making what he called a "readable paper."

At the same time, while he was thus talking right out in the boldest, plainest, most unhesitating but at the same time most uncourteous manner, he avoided indecency and professed to furnish a moral and family paper that would not offend the most delicate or refined ears. While he spoke in favor of churches and particularly of schools, he could hardly find words sufficiently forcible to express his reprobation of gamblers and disreputable houses. From the very beginning he had refused to accept low medical advertisements and said that whatever was unfit to be read at his own fireside was unfit to be sent into the parlors of his readers. When told that all the other newspapers received such cards and were glad to get them and in fact could not get along without them, he answered, "Well, we are poor enough, in all conscience; but, if we can not get along without such aid, we will shut up our office and start for the mines."¹ In reference to disreputable houses, he said that Hampton North, the city marshal, did not do his duty and ought to be removed. "If the council," he continued, "find they have not power or lack the will to remove Mr. North or make him do his duty, we will have the records searched and learn who own the houses rented to these people; and we will publish their names, that the respectable portion of the community may know who to admit and who to reject from their firesides. It's no use trying to dodge the Bulletin, gentlemen!"²

No such a newspaper, or anything like it, had appeared in the city or country and perhaps not in any other country before. It was an ideal fighting journal. It was heroic. Whatever might be its mistakes and its errors, it was sincere and it meant right. And the better class of people almost at once felt it to be such. In a month it printed nearly twenty-five hundred copies; in less than two months its circulation was the largest in the city, amounting to nearly thirty-five hundred copies; and it went on

¹ Bulletin of October 12, 1855.

² Bulletin of November 7, 1855.

increasing in circulation and every couple of months enlarging in size until it far outstripped in power and influence and effect upon public opinion any and all other newspapers in the city. It was exactly what the people wanted and they responded unreservedly. In the fearful condition of public affairs, with fraud and corruption and crime and immorality of every kind and nature on every side, it formed a rallying point, towards which all the elements of law, order, honesty and integrity could converge and around which they could arrange themselves.

On the evening of Saturday, November 17, 1855, only a little more than a month after the Bulletin was started and while the public mind was thoroughly moved by the exposures it had made, William H. Richardson, United States marshal for the district of California, was assassinated in the street by a gambler named Charles Cora. The two men had had a disagreement and altercation the day before and that evening met in the Blue Wing drinking saloon on Montgomery near Clay street. Richardson appears to have been somewhat intoxicated and possibly disposed to be quarrelsome. However this may have been, the two went out together without attracting particular attention; and, turning into Clay street and walking down the south sidewalk to near the corner of Leidesdorff, they stopped in front of one of the door-ways of Fox & O'Connor's wholesale liquor store, which, it being then between six and seven o'clock, was closed for the night. While standing there talking, Cora was seen to grasp the collar of Richardson's coat with his left hand and with his right present a derringer pistol to his breast. Richardson had his hands by his sides or in his pockets at the time and was reported to have said, "You would not shoot me, would you? I am not armed." The next moment the pistol was fired. Richardson fell dead; and Cora, having released his hold, walked up Clay street and was shortly afterwards arrested and placed in the custody of the city marshal. Though there were very few persons in the street when the shot was fired, a large crowd almost immediately gathered; and, as soon as it was known that so prominent a man as Richardson had been shot down in apparently cold blood not only by a gambler but the shameless protégé of a notorious prostitute called Belle Cora,

the excitement became intense. Richardson was a native of Washington City; had come to the country in pioneer times; in 1851 had been elected quartermaster-general of the California militia; in 1852 was a delegate to the Democratic national convention that nominated President Pierce, and in March, 1853, was appointed United States marshal. He was about thirty-three years of age and had only recently been married. Cora was said to be a native of Italy; but he spoke English like an American. He always dressed well and, though never known to have any occupation except that of gambling, pretended to be a gentleman.

As the facts and circumstances of the homicide became more and more known, the excitement increased. The public mind, as has been shown, had already been stirred up and exasperated by the exposures and denunciations of the Bulletin. It was perfectly well known that, though the murder of Richardson was of the most excuseless and atrocious character, no money or bad influence that could be exerted would be spared to save the assassin; and no confidence was felt in the officials. Under the circumstances there was much talk of lynching and many persons regretted that the old vigilance committee of 1851 was no longer in active service. Later on in the night, the startling tap of California Engine Company No. 4's bell, the tocsin which had so often called the old committee together, was heard; and many of the old members assembled at the Oriental Hotel on the corner of Market and Battery streets. But there was no violence or offer of violence. Better counsels prevailed. Samuel Brannan, then one of the wealthiest residents and business men of the city, who had been one of the leaders of the old committee, made an excited and exciting speech, which was supposed to suggest lynching; but he afterwards, when charged with counseling violence, showed that he had only gone so far as to advocate that the people should take proper measures to see that the law was efficiently carried out in reference to Cora; and such in substance was the effect of a series of resolutions adopted by the meeting.¹

On Monday a coroner's inquest was held on Richardson'

¹ Alta California of November 18, 1855.

body; and the jury returned a verdict that the murder had been premeditated and that there was nothing to mitigate it. On Tuesday the Bulletin came out with the quieting sentence, "We do not want to see another vigilance committee, if possible to be avoided." But at the same time it sounded loudly the note of alarm. "That no effort," it said, "will be spared to get Cora clear begins now to be apparent. His friends are already at work. Forty thousand dollars, it is said, have already been subscribed for the purpose. Of this some five thousand dollars will be sufficient to cover the lawyers' fees and court charges, and the balance can be used as occasion may require. One bad man on the jury will be sufficient to prevent an agreement. Look well to the jury!" And again, "What we propose is this: If the jury which tries Cora is packed, either *hang the sheriff* or drive him out of town and make him resign. If Billy Mulligan lets his friend Cora escape, *hang Billy Mulligan* or drive him into banishment." On November 22, it again returned to the subject under the caption in big letters of "Hang Billy Mulligan." "That's the word!" it proceeded to say. "If Mr. Sheriff Scannell does not remove Billy Mulligan from his present post as keeper of the county jail and Mulligan lets Cora escape, *hang Billy Mulligan*; and, if necessary to get rid of the sheriff, *hang him—hang the sheriff!* Strong measures are now required to have justice done in this case of Cora. Citizens of San Francisco, what means this feeling, so prevalent in our city, that this dastardly assassin will escape the vengeance of the law?" And still again, "Oh Heavens, what a mortification to every lover of decency and order in and out of San Francisco, to think that the sheriff of this county is an ex-keeper of a gambling hell; his deputy, who acts as keeper of the county jail, is the notorious Billy Mulligan, and another deputy, Burns, the late 'capper' at a 'string game' table."¹

The result of the public excitement and alarm, inflamed by articles of this character, was to hasten Cora's indictment and trial. His friend, Belle Cora, who had become rich in her disreputable business, was determined, as the Bulletin had stated, to spare nothing to save him. She engaged several of the principal

¹ Bulletin of November 20 and 22, 1855.

criminal lawyer's and among others Edward D. Baker, afterwards General Baker. It was said that Baker was to receive as his fee five thousand dollars, of which he was paid one-half down; but that soon afterwards, on account of the popular odium attached to the employment, he wished to withdraw and offered to return the retainer. The woman, however, would not consent to release him on any terms. On the contrary she offered to double his fee, if he requested it; but she was determined that he must and should appear as Cora's counsel, and have it known that he was such.¹ Besides Baker, she employed James A. McDougall, George F. James and Frank Tilford. But whatever the ability of these individuals in technical law or oratory, they imprudently allowed Cora to appear on his arraignment in fancy gambler style, wearing a richly figured velvet vest, light sporting kid gloves, and overcoat thrown loosely over his shoulders, his black mustache elaborately trimmed, and exhibiting a nonchalant air, as if in defiance of decency as well as justice.² The impression produced by such a bearing, justifying and proving so to speak all that had been vaguely felt by the public and trumpeted forth in the newspapers, did much to intensify the subsequent distrust and popular vengeance. The trial took place on January 3, 1856. Cora was represented by the counsel already named, of whom Baker and McDougall made the principal addresses to the jury, while the main speeches for the prosecution were made by Henry H. Byrne, the district attorney of the county, and Samuel W. Inge, the United States district attorney, though Charles H. S. Williams and Alexander Campbell also appeared on the same side. Most of the jury were good men; but there were a few shaky ones. One exposed an attempt on the part of the defense to bribe him; and there can be little or no doubt that money was freely used upon some of the witnesses and probably upon some of the jurors.

Baker had a wide reputation for eloquence; and it was on that account that he was employed. He had the power when roused, of speaking with great effect; but he was not overchoice in the

¹The Vigilance Committee of 1856, by a Pioneer California Journalist, San Francisco, 1887, 14, 15.

²Alta California of December 2, 1855.

objects of his praises. In this case, he undertook to paint Belle Cora in language that could properly be used only in the characterization of the purest and holiest of female virtues. He attempted to palliate the vileness of her life and business by pictures of her devotion to her paramour; and he declared that he for one admired and honored her. It is not very likely, in view of the extreme length to which he went in his speech, that he ever very seriously hesitated about advocating Cora's cause or that the report above mentioned of his wanting to return the retainer he had received and withdraw from the case was altogether correct. But in any event it was plain that, after undertaking the defense, he was not disposed to stop at anything that he supposed was calculated to help his client. He may possibly with his words have produced some effect upon a few of the jury; but it was generally supposed that they had been tampered with and "fixed" before, and that his praise of Belle Cora was not only not a part of his duty as an attorney but in fact little if anything short of an insult to decency.

However this may have been, it is certain that, though nearly everybody considered Cora guilty, no one expected a verdict of conviction. It was the common talk that no person, having so large a corruption fund at his back, no matter how atrocious his guilt, could ever be punished and that the trial was a farce. There was not much surprise, therefore, when the jury on January 17, 1856, after being out for twenty-four hours, failed to agree—seven voting for murder, one for manslaughter and four for acquittal. The Bulletin appeared on the same afternoon with an article commencing, "Twelve o'clock, noon. 'Hung be the heavens with black!' The money of the gambler and the prostitute has succeeded, and Cora has another respite. The jury cannot agree and are discharged. Will Cora be hung by the officers of the law? No. Even on this trial one of the principal witnesses against him was away, having sold out his establishment at twenty-four hundred dollars and left the state. It is said another trial cannot be had this term, and by that time where will the other witnesses be? Rejoice, ye gamblers and harlots! rejoice with exceeding gladness! Assemble in your dens of infamy to-night and let the costly wine flow freely, and let the welkin

ring with your shouts of joy! Your triumph is great—oh, how you have triumphed! Triumphed over everything that is holy, and virtuous, and good; and triumphed legally—yes, legally! Your money can accomplish anything in San Francisco, and now you have full permission to run riot at pleasure. Talk of safety in the law? It is a humbug. The veriest humbug in existence is the present system of jury trials. Had we had a jury of eighteen, with a two-thirds vote to govern, an honest jury in this case might have agreed in one hour after leaving the jury box. Rail at the vigilance committee, and call it an illegal tribunal? What scoundrel lost his life by their action who did not most richly deserve it? Men complain of vigilance committees and say we ought to leave criminals to be dealt with by law! Dealt with by law, indeed! How dealt with—to be allowed to escape, when ninety-nine men out of a hundred believe the prisoner to be guilty of murder? Is not this very course calculated to drive an already exasperated people to madness and, instead of a vigilance committee with all its care and anxiety to give a fair trial without the technicalities of the law, to call into action the heated blood of an outraged community that, rising in their might, may carry everything before them and hang the wretch without even the semblance of a trial? We want no vigilance committee, if it can be avoided; but we do want to see the murderer punished for his crimes. If we remember rightly, one article in the constitution of the vigilance committee was, that *no lawyer could become a member!* Peter the Great, when in Paris once, said he had but three lawyers in his empire, and he intended hanging two of them immediately on his return. What purpose does the law serve but to bind honest men and let loose the vile and guilty?"

This language voiced the outraged feelings of a very large part of a community, which believed that no man's life was secure and that there was no safety whatever in the administration of the law. Only ten days before Richardson was assassinated in the streets of San Francisco, two other prominent men, one of them Isaac B. Wall, who had in 1853 been speaker of the California assembly and was then collector of Monterey county, and T. S. Williamson, assessor of Monterey county,

had been murdered under circumstances of great atrocity while traveling on the high road leading along the Salinas river; and there seemed no likelihood of ever finding and still less of ever trying, convicting or punishing the murderers. And afterwards, on May 13, 1856, as if to give emphasis to the sad state of affairs, Hugh C. Murray, the chief justice of the supreme court of California, who might have been supposed to be the supreme conservator of the peace in the state, publicly assaulted and struck down with his cane in the streets of Sacramento a citizen named Hill for the reason that he was reported to have stated that Murray was the meanest man that ever sat on a supreme bench.¹

The excited state of the public mind was not allowed to subside. King had continued his attacks, daily enlarging the circle of his strokes and redoubling the force of his blows as he warmed up to his work. If he had not been at first, he soon became a power in the land; and his paper was not only more read, but it was also more feared than any other or than all others combined. Those whom it attacked and those who knew that they were liable to be attacked, though they affected to despise it, were in constant dread and terror; and, as may readily be supposed, various plans were discussed as to how it might be muzzled or its influence destroyed. The only means was to get King out of the way. It was supposed by some that there existed a deliberate conspiracy to kill him; and, as silencing the Bulletin could not be accomplished in any other way, it is not at all unlikely that a project of that kind was considered and talked over more than once. King knew perfectly well that he was liable to be assaulted at any moment and not only carried a pistol and practiced shooting with it but gave notice in his paper that he was doing so and prepared for an attack.² It is also certain that when the attack came, though it was altogether unexpected by King, several persons knew of it beforehand, among whom were Edward McGowan and Peter Wightman;³ but there has never been any sufficient proof produced to show that there was a

¹ California Chronicle of May 15, 1856.

² Bulletin of December 6, 1855, and January 5, 1856.

³ Narrative of Edward McGowan, San Francisco, 1857, 14-16.

conspiracy in the proper sense of the word on the part of these persons, or that their previous knowledge was of that contributory character necessary to make out against them the crime of murder as accessories before the fact.

It was on May 14, 1856, that the attack upon King took place. In the Bulletin of that afternoon he published an article against the appointment of a man named John W. Bagley to a position in the United States custom-house. Bagley, he went on to say, seemed to behave himself at that time; but he had been engaged in a very disreputable election fight not long before with James P. Casey, one of the supervisors of San Francisco; and it seemed plain that in that fight Bagley was the aggressor. "It does not matter," he continued, "how bad a man Casey has been, nor how much benefit it might be to the public to have him out of the way, we cannot accord to any one citizen the right to kill him, or even beat him, without justifiable personal provocation. The fact that Casey has been an inmate of Sing Sing prison in New York is no offense against the laws of this state; nor is the fact of his having stuffed himself through the ballot-box, as elected to the board of supervisors from a district where it is said he was not even a candidate, any justification why Mr. Bagley should shoot Casey, however richly the latter may deserve having his neck stretched for such fraud on the people." Not long after the paper containing this language came out and, as near as can be estimated, about four o'clock in the afternoon Casey, who as King had stated was a supervisor of the county and who was also editor of a low sheet called the Sunday Times, made his appearance in the Bulletin editorial room on Merchant between Montgomery and Sansome streets and asked King what he meant by the article in the Bulletin just issued. King in return asked what article he referred to, when Casey answered, "To that which says I was a former inmate of Sing Sing prison." King asked, "Is not that true?" Casey replied, "That is not the question. I don't want my past acts raked up. On that point I am sensitive." King then said, "Are you done? There's the door! Go! Never show your face here again." There were other persons present in an adjoining room, the door of which was open, or possibly Casey might have

made an attack then and there; but, instead of doing so, he moved off, saying, "I'll say in my paper what I please." King rejoined, "You have a perfect right to do as you please. I'll never notice your paper." Casey, slapping his hand on his breast then said, "If necessary I shall defend myself." King then rose from his seat and repeated, "Go! Never show your face here again." And thereupon Casey, without saying another word, left and went down stairs.¹

It has generally been supposed and frequently represented that the article in the Bulletin of May 14 was the first publication in California of the fact that Casey had been an inmate of Sing Sing prison, and that such publication was the sole cause of Casey's determination to kill King. And it is possible that the prominence given in the Bulletin to the fact added to Casey's murderous feelings. But the Bulletin's article was not by any means the first publication of it. On November 2, 1855, in a trial before the court of sessions of Robert Cushing for alleged assault with a deadly weapon upon Casey in an election fight which took place at the corner of Kearny and Pine streets on August 21, 1855, in which some twenty shots were exchanged between Bagley, Cushing and others on the one side and Casey and others on the other side and in which Bagley was seriously shot in the back and Cushing seriously cut in the breast, Casey testified that he had been convicted of larceny in New York and served eighteen months in Sing Sing prison; and his admission of the fact was published in all the San Francisco newspapers of the time. On November 3, 1855, the California Chronicle went further and published a violent editorial against Casey, calling marked attention to his position as supervisor of the twelfth district and his having been an inmate of Sing Sing; and the part of that editorial referring to Casey was republished in the Bulletin of November 5, 1855.² In view of these facts, it seems plain that the publication in the Bulletin was only made use of as a pretense for the killing; and that Casey, as a man of ungovernable temper and desperate character, was only a tool egged on

¹A True and Minute History of the Assassination of James King of Wm., San Francisco, 1856, 4, 5.

²California Chronicle of August 22, November 2 and November 3, 1855, and Bulletin of November 5, 1855.

by men of much greater prominence but equally as bad as himself. It is well known that previous efforts had been made to silence King by buying him out or securing a controlling interest in the *Bulletin*.¹ But all these attempts failed; and, as it was found that he could neither be bribed nor frightened, there was nothing left but to kill him. It was supposed at the time and it has been supposed ever since, by many intelligent and fair-minded men, that there was a previously formed conspiracy to kill him and that it embraced men much more prominent than Edward McGowan or Peter Wightman. But up to this time, as before stated, no positive proof has been adduced of this; and it cannot therefore be affirmed with certainty.

The assassination was of the most cowardly character. At a few minutes past five o'clock or about an hour after Casey had gone, King left his editorial room to walk home. He was then living on the corner of Pacific and Mason streets. He wore at the time a short cloth cloak, or "talma" as it was called, which he generally buttoned or held together in front with his hands; and it covered his arms. He appears to have walked out of Merchant street into Montgomery and along Montgomery, in front of Montgomery Block, to the corner of Washington street, and to have been crossing diagonally from the southeast to the northwest corner of the intersection of those streets, or in other words from the Bank Exchange corner to the Pacific Express corner, and was more than half way across, when Casey, who had for some time been nervously walking up and down Washington street and evidently waiting, suddenly stepped out from behind an express wagon standing on the west side of Montgomery just north of Washington street and throwing off his cloak presented a large navy revolver pistol at King's breast and fired. He was only a few feet, possibly ten or fifteen, distant. It was said by some that he used a few excited words, such as, "Are you armed? defend yourself," or, "Come on; I am going to shoot" or something to that effect; but, whether he did or not, it is certain that he gave King no time or chance to draw a weapon and that all the circumstances of the attack showed it to be as treacherous and basillanimous as that of any assassin could be.

¹ *Bulletin* of January 7, 1856.

King, upon receiving the wound, uttered an exclamation of surprise or pain and, staggering forward, was led into the Pacific Express office and handed a chair. In a short time afterwards a bed was procured, upon which he was placed; and a number of surgeons were called. Upon examination, it was found that the pistol ball had entered the left breast just above the nipple and come out behind under the left shoulder blade. The wound bled profusely and was very painful. In a short time, on account of the shot, the loss of blood or the shock, the patient's extremities became cold; but by means of various applications a moderate degree of warmth was restored; and, after the wound was dressed and bandaged, anaesthetics were administered; and he slept for several hours. But, notwithstanding he was not dead and was not likely to die for at least a day or two, it was plain to see that he was in a very critical condition, and that, though some hope was held out of his eventual recovery, very little was felt by those most cognizant of the nature and extent of the injury. As a matter of fact, he had received a mortal hurt; and the purposes of Casey and his co-conspirators, if he had any, and the wishes of all King's enemies were accomplished. His voice was forever silenced.¹

¹ Bulletin, California Chronicle and Alta California of May 15, 1855.

CHAPTER VIII.

VIGILANCE COMMITTEE OF 1856 (CONTINUED).

AS soon as he had fired the fatal shot, Casey either gave himself up to or was joined by deputy sheriff Lafayette M. Byrne and Peter Wightman, the latter of whom as well as Edward McGowan, who had just gone up Washington street so as to be out of the way, seems to have been perfectly well aware of an intended assault. The three at once, or as soon as Casey had picked up his cloak, started for the city hall; and, as they hurried along, Casey slipped a gold-mounted derringer pistol into Byrne's hand, apparently wishing either not to expose or compromise the person from whom he had borrowed it or to conceal the fact that he had carried an extra weapon. Whatever may have been his purpose, the circumstances showed that he regarded Byrne as his friend and the city hall or at least the prison there as the safest place for him.¹

It behooved Casey to hurry. He had barely got into the police prison when a crowd began to gather; and, becoming wild with indignation and excitement, it commenced crying, "Where is he?"—"Let's have him!"—"Run him up to the first lamp post!"—"Hang him!"—"Hang him!" From every side the people converged, filling the streets and surging in great black masses and continually growing louder and more threatening, until it seemed evident that trouble was brewing and that it might not be safe to keep Casey in the police prison. The doors, it was true, were all closed and guarded by officers; but the crowd, though without organization, was increasing with fearful rapidity, howling with rage, uttering imprecations against the sheriff and police, and growing louder and more violent every moment. Under these circumstances and while the thoroughfares about the city hall were yet comparatively clear—the

¹ McGowan's Narrative, 14-19.

crowd being still congregated near the corner of Montgomery and Washington streets—it was determined to remove Casey to the county jail as a place of greater safety. He was accordingly taken out, by way of Dunbar's alley, accompanied by city-marshall Hampton North, captain-of-police Isaiah W. Lees and a number of police officers. A carriage was in waiting on Washington street near the corner of the alley. But before the party reached it, a cry of, "Here's Casey! Here's the murderer getting away!" or something to that effect was raised; and there was an immediate rush of the crowd towards the spot. Casey jumped for the middle of the street and attempted to draw his revolver, which he still had on his person; but he was seized by Lees, disarmed and forced into the carriage, into which Lees, North and police officer John L. Durkee followed; and the carriage was then driven at the top of its speed into Kearny street and thence to the county jail on the north side of Broadway street between Kearny and Dupont. It was said that Charles P. Duane, chief engineer of the fire department and a friend of Casey, tried to get into the carriage; but, failing in that, he clung to the back of it, as it was driven furiously along.¹

The county jail was a stone and brick structure, two stories high, built in an excavation on the side of Telegraph Hill. Its roof at the rear was no higher than, and in some places not so high as, the sides of the excavation. After the building had been erected, Broadway street had been graded down about eight feet, leaving a bank of earth immediately in front of the jail about ten feet wide and eight feet high above the street. A flight of heavy wooden steps led up from the street level to the top of this bank; and up these steps and into the large, single, front door of the prison Casey was hurried. A great crowd had pursued the carriage at full speed, and yelling at every breath, "Hang him! kill him!" all the way from Washington street to the foot of the steps; but there it was stopped by an array of deputy sheriffs, police officers and particularly a number of Casey's friends standing on the bank, including Edward McGowan, Charles P. Duane, Daniel Aldrich and many others, all well armed. It was a very noticeable circumstance

¹ Statement of Isaiah W. Lees.

that there were so many of these men present, most of them having apparently congregated there before Casey arrived.¹ However this may have been, Casey had had a very narrow escape from being torn to pieces by the crowd, which was increasing in numbers and frenzy every moment. He had hardly got into the jail when Thomas S. King, brother of James King of William, attempted to mount the bluff bank for the purpose of addressing the people, but was prevented by the officers. In a short time, however, at the suggestion of some of the by-standers, he got upon a balcony on the opposite side of the street; and, comparative silence being restored by his appearance, he began an excited harangue. He said he had but little to say about the matter. In his opinion it was "a cold premeditated and cowardly murder by the hand of a — Sing Sing convict and by a plan of the gamblers of San Francisco." He then went on in a few words to say something about the origin of the difficulty and how Casey had been sent away from the Bulletin editorial room. "About an hour ago," he continued, "I was in at old Natches' pistol gallery; and he told me that my brother was to be shot. If he knew it, did not the gamblers know it? and was it not a premeditated plan —and that by the gamblers of the city? Why did the officers not know it and interfere? Gentlemen, we have got to take that jail; and, to do so, we must kill those officers, unless they give way to us; and we must hang that fellow up!"²

At the conclusion of these remarks there was a tremendous burst of applause from the crowd; and it seemed as if a hostile move upon the jail might be expected at any moment. At this indication, police officer John Nugent, becoming wild with excitement, jumped down from the bank in front of the jail and made a rush towards where the speaker was, as if to arrest him; but the crowd at once closed up and prevented his further progress; and he was compelled to retire to his former station amid hisses and execrations. Marshal North at once gave orders to his men to make no reply and pay no attention to what might be said by

¹ Personal Recollections of the Vigilance Committee, by Dr. William O. Ayres, Overland Monthly of August, 1886.

² San Francisco newspapers of May 15, 1856.

the crowd. On the other hand Thomas S. King, as soon as he had heard the storm of acquiescence in response to his proposition to take the jail and hang Casey, leaped from his balcony and made a rush towards the jail as if to lead an attack upon it. But he had got only a little way before he was stopped by friends, who were cooler-headed than himself, and induced to enter a carriage, which was then driven rapidly away. By that time it was known, or at least rumored, that a vigilance committee was organizing in the lower part of the city; the facts were whispered from one to another, apparently to King as well as others; and the result was a feeling that something would be speedily done to satisfy the cry for justice.¹

While these rumors of the rising of a vigilance committee were being circulated and to some extent quieting the excitement, a company of armed men approached. The people, supposing them to constitute an advanced guard from the committee, broke out into loud cheers; but in a few minutes, upon its appearing that they were a company of citizens, who had been called upon or volunteered to defend the jail, the cheers were turned into hisses and groans. At about half past six o'clock, James Van Ness, the mayor of the city, made his appearance among the officers on the bluff bank in front of the jail and, stepping forward, removed his hat as if desirous of speaking. The crowd was evidently not favorably disposed to hear him. Quiet, however, was at length procured, when he proceeded to tell the people that they were creating an excitement that might lead to occurrences, which it would require years to wipe out. "You are now laboring under great excitement," he continued, "and I advise you to quietly disperse. I can assure you that the prisoner is safe. Let the law have its course, and justice will be done." But he had no sooner spoken of the law having its course and justice being done, than his voice was drowned in a storm of cries, such as, "Look at poor Richardson—what about justice in his case?"—"Where is Cora now?"—"Damn such justice!" It being evident that he would not be further heard, the mayor put on his hat and retired. Not long afterwards, another squad of

¹ San Francisco newspapers of May 15, 1856; Dr. William O. Ayres in Overland Monthly of August, 1886.

armed men for the defense of the jail marched up; and, as they made their way through the crowd, somebody threw a clod of dirt at one of them; and for awhile there was danger of a bloody collision; but this was happily averted by the officers. Other recruits for the defense of the jail kept arriving; and before long armed guards were stationed throughout the building, on its roof, and all around it.¹

Meanwhile Montgomery street between Washington and Clay became more densely packed with people than it had ever been before. They were not only anxious to hear of the condition of the sufferer but they were also desirous of encouraging any move in the direction of a vigilance committee. Ropes had been stretched across the streets in front of the Pacific Express office, where King was lying, so as to keep the crowds off; but a number of surgeons and friends were passing in and out; and every few minutes accounts were sent forth of how the patient was resting. At about seven o'clock his wife arrived and assisted in ministering to his wants. It was supposed between seven and eight o'clock that there were not less than ten thousand persons in Montgomery street; and as their numbers swelled their excitement increased. Several individuals made inflammatory addresses and advised immediate vengeance. Every sentiment in that direction was received with a roar of applause. One man, addressing the crowd, inquired whether they were ready or not; and a shout of ayes, apparently unanimous, ascended from the vast throng. The speaker then cried out that they should all arm themselves and meet on the Plaza at nine o'clock. At that hour the greater part of the crowd had congregated on the Plaza; but it soon became evident that there was no organization and no one present to take the lead; and nothing of importance was done. Loud hurrahs and shouts of approbation greeted every mention of vigilance or vengeance, while the appearance of armed men on their way to the defense of the jail called forth only hisses and groans. Here again rumors of the organization of the vigilance committee passed from mouth to mouth; but by degrees the assembled crowds dissipated, some returning to Montgomery street and others moving off towards the jail.

¹ San Francisco newspapers of May 15, 1856.

By ten o'clock there were about three hundred armed men on guard at the jail. Some of them were private individuals and not a few prominent men, chiefly lawyers; others were public officers or members of military companies, and still others friends of Casey. The first military company on the ground appears to have been the San Francisco Blues under command of Lieutenant J. Martin Reese. At about eleven o'clock Frederick W. Macondray and John Sime, who were recognized as friends of King and on the side of the people, reported that they had just visited the jail and that there need be no apprehension as to the safety of the prisoner, as he was securely locked up. As a matter of fact, though surrounded by his friends and visited and shaken by the hand by numerous acquaintances, he had already begun to realize the storm he had raised; and, notwithstanding his confidence in eventual escape, he desired confinement behind the strongest bolts and bars quite as much as anybody. About half past eleven o'clock, to make things doubly sure, a mounted battalion under command of Major Isaac Rowell, consisting of the California Guards under Lieutenant James F. Curtis commanding, the First Light Dragoons under Captain J. Sewell Read, and the National Lancers under Captain Thomas Hayes, marched to the jail and took up their position on guard for the night in front and in the vicinity of it. Soon after twelve o'clock, except the guards and military, the officers on duty and a small crowd near the Pacific Express office, which remained all night, the people had all disappeared from the streets.¹

The rumors of the organization of a vigilance committee, which had served to repress the popular excitement and prevent violence on the night of the shooting, proved to be premature. A few of the members of the old committee of 1851 had come together at the store of Gabriel B. Post & Co. on the corner of Front and Green streets; and soon afterwards a call for a meeting the next morning of that still undisbanded organization, purporting to be issued by its executive "committee of thirty," was prepared and given to several of the newspapers for publication in their morning editions.² But that was all that was done;

¹ San Francisco newspapers of May 15, 1856.

² See Alta California and San Francisco Herald of May 15, 1856.

and no attempt whatever was made to take further action that night. The next morning at nine o'clock, however, when the members of the old committee began to assemble, in accordance with the call, at the lodge-room of the American or Know-Nothing party on Sacramento street near Leidesdorff, they found the street in front of the building densely packed with crowds, evidently in sympathy with and desirous of taking part in the movement; but it soon became evident, on account of the great changes which had taken place during the previous five years, that the old organization would no longer answer; and a new one would have to be formed. Among those present was William T. Coleman, who had been an active and prominent member of the old committee. He was asked to start the new movement; and, at his suggestion, it was resolved that the new organization should be entirely impersonal, that no names should be used, that each man should have his number and be known by his number only. It was necessary, he said, to have the organization very "close," very guarded, and to be very careful whom they should admit. He then sat down and wrote out a very strong oath of fealty to the organization, pledging life, liberty, property and honor, which was approved by those standing around; and he then swore in half a dozen of them. Upon repeating the proposition that each should take a number and that every man's name with his residence and occupation should, as he was admitted, be entered in a book opposite the number by which he was to be known, he asked, "Who shall be number one?" Several cried, "You, Mr. Coleman." He requested one of the others to lead; but that person declined, saying that he was ready to fall in anywhere else; but Mr. Coleman must head the list. There was nothing left but to acquiesce; and it was thus that Coleman became "No. 1" of the committee.¹

The work of enrollment went on rapidly. Most of those, who first joined, had been members of the committee of 1851 and were more or less familiar with the methods of that body. They proceeded at once to organize by electing a president, eight vice-presidents, a secretary, treasurer and sergeant-at-arms. The president suggested an executive committee, which should have

¹ Statement of William T. Coleman.

the general direction of the whole association, as the committee of thirty had had the direction of the vigilants of 1851; and twenty-six members were elected to that body. An examining committee of nine persons was likewise chosen and also a chief of police and some twenty-five policemen. As soon as an organization was thus effected, several matters of prime importance were taken into immediate consideration; and it was resolved: first, that suitable quarters for the meetings of the committee should be procured, and, secondly, that full power should be given to the executive committee to act upon all matters and to report at future meetings of the general body. It was further resolved that the committee as a body should, at such time as the executive committee might direct, visit the county jail, take James P. Casey and Charles Cora, give them a fair trial before the general body or a committee thereof, and mete out such punishment as justice might require. It was also resolved that the executive committee should, after careful investigation, report to the general body the names of all persons who were notoriously, undeniably and criminally obnoxious to the community and dangerous to the lives, peace and property of the citizens, to the end that they might be required to leave the state on peril of incurring more decisive action on the part of the committee of vigilance to relieve the community of their presence. All these resolutions, in addition to one for the election by the executive committee of a permanent secretary, and another for the selection of an alarm bell for the use of the committee, appear to have been adopted unanimously; and thus the general scope and purpose of the organization was very clearly understood and indicated from the start.¹

Another resolution was offered and adopted at the first meeting, which still more significantly and emphatically indicated the temper, intentions and earnestness of the people; but it met with some opposition and particularly from William T. Coleman, the president. This was a resolution that all members of the committee should withdraw their support from the Herald newspaper and use their influence with their friends to do likewise.² The

¹ MS. Record of Minutes of Executive Committee, &c., of Committee of Vigilance of San Francisco, May 15, 1856.

² Vigilance Committee Record, May 15, 1856.

San Francisco Herald was a daily newspaper, publishing also weekly and steamer editions and occupying a first-class position. John Nugent, its editor and proprietor, had sustained the vigilance committee of 1851 and had managed to secure and for four years to retain the favor of the mercantile community as manifested by receiving what were known as the auction advertisements, which were not only of themselves very remunerative but rendered his paper a necessity to everybody doing business in the city. It was to have been expected that Nugent would do very much as he had done before, and particularly as the merchants, almost without exception, were in favor of a vigilance committee; but he had apparently got an idea that he was much more of a power in the land than he really was and that he could safely oppose and defeat the movement. Like several other newspaper men, he hated James King of William with great intensity and refused to see in Casey's murderous attack anything more than an ordinary affair in which Casey was quite as likely as not to be justified. He accordingly on the morning of May 15, after the shooting, came out in an editorial in which he termed it an "affray between Mr. James P. Casey and Mr. James King of Wm." and said that "motives of delicacy, needless to explain," forced him to abstain from commenting on it. But he could not refrain from condemning the "mob spirit manifested" by the people. He had in times past, he said, sustained the vigilance committee at the peril of his life and fortune; but, at a time when justice was regularly administered, there existed no necessity for such an association or any other organized infraction of the law. He therefore wished to be understood as most unqualifiedly condemning the movement. Much as he admired the acts of the vigilance committee of 1851, he had arrived at the conclusion that it could never be revived, except under the most extraordinary circumstances; and he declared that they had not yet come.¹

Under ordinary circumstances little attention, perhaps, would have been taken of what Nugent said. But several matters conspired on this occasion to attract notice to his utterances. He had been charged by King with truckling to corruption, with

¹ San Francisco Herald of May 15, 1856.

being in the pay of Palmer, Cook & Co., with aiding bad men to get into office, with being "recreant to every principle of honesty and care of the public good" and even with personal immorality.¹ This fact, added to the fact that he was supposed, more than any other journalist, to voice the sentiment of the mercantile community and the further fact that, in the terrible need that was felt of doing something for the public safety, every newspaper was expected to clearly and unequivocally define its position on the side of the people, drew the eyes of everybody upon the editor of the Herald; and when it was seen how he met the burning question of the hour, the general indignation was unmeasured. On Front street, which at that time contained nearly all the wholesale mercantile houses in the city, the merchants gathered up all the copies of the Herald they could find and burnt them with every expression of censure and reprobation; and at the same time they circulated and two hundred and fifty of them, composing practically all the leading firms, immediately signed a notice to the auctioneers of the city, informing them that they would no longer be subscribers of the Herald and requesting them to advertise their sales in some other newspaper. The effect was to lop off at one sweep almost all the patronage of the Herald, which the next morning appeared reduced to about one-half its former size. It attempted in its editorial to treat the matter in a high-toned spirit and even to be facetious with iterations of its reverence for the "commercial interest," the good it had done the "commercial interest," the benefit it had derived from that interest, what a sound and lucrative interest it was, and so on down to the declaration that, notwithstanding its respect for the "commercial interest," it was not going to be swayed by respect for the senseless prejudices of the "commercial interest." There is reason to believe that Nugent looked upon the excitement as a mere temporary flurry, as he called it, and expected that it would blow over in a few days and that he would regain what he had thus lost; but if so, he was entirely mistaken. It was not a mere flurry; nor did it blow over; and, as he had started out with an expression of opposition to the vigilance committee, he was obliged to remain

¹ Bulletin of October 29, November 2 and 5, 1855, and January 14, 1856.

opposed to it; and the result was the breaking up of his business and eventually the suspension of his paper.¹

Coleman, as has been stated, was opposed to any action of the vigilance committee as such against the Herald or its editor. He said that the feeling manifested seemed to run more against the Herald than against Casey. He was sorry, he continued, to disagree so early with his friends; but he was decidedly of opinion that the resolution against the Herald should not be adopted. He believed in the freedom of the press, at least within certain limits, and thought that the Herald, though opposed to the committee, had a full right to express its views and in its own way; and, if any action was to be taken, it should be taken by individuals and not as an organization. But others were of opinion that the freedom of the press, unless it was directed in the right direction, was an evil instead of a good; and that it was quite as much within the objects of the vigilance committee to look after a criminal press as a criminal anything else. It was plain that the Herald was the advocate of men and measures, against which the committee had risen, and, as an avowed enemy, would do all in its power to injure it and thwart its action. Under the circumstances they were determined to crush it out entirely; and they therefore insisted, and successfully insisted, in opposition to Coleman, in adopting the resolution that every member should not only withdraw his advertisement and discontinue his subscription to the Herald but, as far as possible, induce every other person to do likewise—and this too as one of the very first things to be done.²

The number of persons enrolled during the first day was about fifteen hundred. In the meanwhile a larger and more convenient place of meeting was secured at Turn Verein Hall on Bush street between Stockton and Powell; and there that evening the committee, after a short recess, again met and enrolled about five hundred more members. The subject of organizing into companies having come up, Coleman, after some discussion, proposed the plan of dividing off into centuries or companies of

¹San Francisco Herald of May 16, 1856; A True and Minute History of the Assassination of James King of Wm., &c., San Francisco, 1856, 9.

²Statement of William T. Coleman.

a hundred, after the old Roman style, and then putting ten companies into a regiment, making each regiment an effective force of a thousand men. This proposition meeting with approval, he mounted a table and directed all members from number one to number one hundred to assemble in front of the window at the southwest corner of the room; all from number one hundred and one to two hundred to assemble at the next window; numbers two hundred and one to three hundred at the next; and so on, naming some fifteen different stations. There being at the same time a large French element present, thinking it best that they should organize separately, he cried out in French, "Les Français se mettre au centre—Frenchmen to take the center." He then directed that for temporary organization each company of one hundred or less, according to the number of Frenchmen subtracted from it, should select its own officers or rather nominate its own officers and submit them for approval to the executive committee; and he suggested that as far as possible the best men in a military point of view should be selected. As for the Frenchmen, they were requested to disregard their numbers but divide into companies of about a hundred and organize as best they could, under officers speaking their own language, and form, instead of a regiment, a French legion. All these suggestions meeting with hearty approval, the various companies organized, chose their officers and sent their names in for approval; and thus within a comparatively short time, not more than twelve or fifteen hours after the first meeting on Sacramento street, the vigilance committee of 1856 was practically in complete working order.¹

On Friday morning, May 16, the executive committee, consisting at that time of about thirty members, all prominent business men, commenced its long series of important meetings by adopting as far as applicable the constitution of the vigilance committee of 1851 and electing as permanent secretary Isaac Bluxome Jr. Bluxome's number on the roll was thirty-three; and he thereafter subscribed his minutes and all papers and documents emanating from the committee with the signature of "33 Secretary." which soon became more potent than that of

¹ Statement of William T. Coleman.

any governor or judge in the country. At the same meeting it was resolved that no city or county officer should be admitted to membership, and further that a copy of the constitution should be furnished certain citizens of Alameda county for the purpose of organizing a vigilance committee to co-operate with the committee of San Francisco. Later, on the same day, the executive committee met again and prepared a letter, addressed to David Scannell, sheriff of the county, which was unanimously adopted by it, as well as by the general body, and was the first of the famous "33 Secretary" missives. It was a simple notification to the sheriff that he and his deputies would be held strictly accountable for the safe custody of the prisoners then in the county jail; but it meant a terrible amount more than it said; and, when it was served upon the sheriff shortly afterwards, he well understood what it denoted.¹

In the meanwhile the news of the shooting of King and rumors of the rise of the vigilance committee had spread through the state and in many places created excitement almost as intense as that felt in San Francisco. At Sacramento on Thursday evening an immense mass meeting was held in front of the Orleans Hotel and resolutions adopted in justification of King as a fearless advocate of the people's rights and an uncompromising opponent of corruption and in condemnation of Casey as a convict and desperado, the conductor of a despicable sheet that should not be tolerated in the state and a leader of thieves, scoundrels and ballot-box stuffers. At Marysville on Friday evening another very large mass meeting was held, at which the Rev. M. C. Briggs came nearer striking the key-note when he said that it was not that Casey as a man had assassinated King as a man that the great excitement had been stirred up in the breasts of the people, but because the exponent of a class of ruffians had shot down in cold blood the representative of a class who were in favor of honesty in social and political life. Still another mass meeting of much the same character was held at Stockton, and so in all the large towns of the state; and all were in very strong and practically unanimous sympathy with the friends of King and the objects of the vigilance committee.

¹ Vigilance Committee Record, May 16, 1856.

This was particularly the case in the mountain towns and mining camps all along the Sierra north and south; and it was especially their action that suggested to William H. Rhodes the well-chosen, poetical expression, which immediately became popular, that "the mountains have spoke to the sea." Not only did they speak, but numerous offers of assistance to the vigilance committee came in from various quarters, among which was one of a thousand men from San José; and delegations from Sacramento, Marysville, Nevada, Placerville, Folsom and many other places poured into San Francisco to witness and if necessary help in the proposed work of regeneration.¹

While the tide of public feeling was thus setting strongly in favor of the vigilance committee and growing more and more irresistible with every fresh accession, the sheriff and those who stood by him began to find themselves deserted by many of those who had at first manifested a disposition to resist an attack upon the county jail or seizure of any of the prisoners. In the course of the night after the shooting, a large party of those who had volunteered to defend the prison went down to the steamers Goliah and Sea Bird, then lying at Pacific street wharf, and taking a cannon from each removed it to the jail and planted it in position for use. At the same time a large number of muskets and other fire-arms was collected by the police from the various armories and gun shops in the city and taken to the jail to be used by such persons as might be willing to aid in its defense. But it soon became evident that the volunteer military of the city were on the side of the people. Their first response, when called upon by Mayor Van Ness, had been but feeble; those who turned out did so very reluctantly, probably feeling that they were acting contrary to the wishes of nine-tenths of the community; and the next day, as soon as they convinced themselves that such was the case, and especially after finding that most of their arms had been removed by the sheriff from their armories without their knowledge or consent, all but one or two companies declined to act any further as a guard to the jail but disbanded and resumed citizens' dress; and most of them joined the vigilance committee and afterwards helped make up the very

¹True and Minute History, &c., 14-16; Bulletin of May 17 and 18, 1856.

efficient military corps of that institution. It was said that upon the manifestation of this spirit, it being feared that an immediate attempt would be made to seize the prisoner, the mayor applied to the commander of the revenue cutter in the harbor to receive Casey on board for greater protection, but that the request was refused. If this were so, it was probably because the officers had no warrant to do anything of the kind, though the popular reason given was that they did not fancy the character of the guest thus sought to be thrust upon them. However this may have been, it is certain that the mayor telegraphed to Sacramento for Governor John Neely Johnson to come down as quickly as possible and afford all the official influence or power he possessed to quell the disturbances and put a stop to the existing excitement. The sheriff on his part, finding himself deserted by the military and being apprehensive that he would be left alone, issued an order for every male inhabitant of the county, over the age of fifteen years, or in other words for the posse comitatus to aid him in the execution of his official duties, with instructions to meet him on Friday afternoon at half past three o'clock in the court-room of the fourth district court.¹

At the meeting in the court-room on Friday afternoon, a number of persons, chiefly lawyers, made their appearance. By the direction of the sheriff the names of about a hundred, who had been summoned, were called over by a deputy and those who answered and made no objections to serving were enrolled as aids. Upon inquiry as to what persons were present, who had been summoned but whose names had not been called, Richard Heath of the mercantile firm of Green, Heath & Allen said that he had been summoned but that he declined most positively to serve, and he wished his refusal distinctly understood. He was not a member of any vigilance committee; but he was not going to act against them. A few lawyers, such as Frank M. Pixley, G. Frank Smith and Alfred Rix, also refused to act; but as a rule the lawyers all willingly accepted service; and on a call for volunteers a number, among whom were John A. Lent, Archibald C. Peachy, Andrew Glassell and Benjamin W. Leigh came forward and offered themselves. At the close of

¹ Alta California of May 17, 1856; True and Minute History, &c., 10-13.

the meeting, the sheriff having ordered his new aids to repair immediately to the jail, about fifty of them proceeded to that place and, after being instructed as to their duties, received arms and ammunition either from the supplies that had been taken from the armories or gun shops, as above stated, or from a quantity that had, on requisition, been sent down from Sacramento, with more than accustomed promptitude, by the quartermaster-general, William C. Kibbe. Altogether there were about one hundred men on guard in and about the jail building, including most of the officials and some good citizens.¹

Governor Johnson arrived by the river steamer from Sacramento on Friday night. At the wharf a deputation of persons opposed to the vigilance committee, who had already begun to be known as the "law and order party," was in waiting; but by some mistake they missed him. It was, however, not so much them as vigilance committee men that he wanted to see. Upon this being understood, William T. Coleman immediately that evening called upon him at his apartments in the International Hotel on Jackson street between Montgomery and Kearny. Without much prelude the governor asked what the vigilance committee wanted. Coleman answered that it wanted peace and would like to have it without a struggle; but if war was necessary to attain it, then there would have to be war. The governor asked what particular matters the vigilance committee wanted to accomplish. Coleman replied: About the same that the vigilance committee of 1851 had accomplished—to see that justice was executed upon a few prominent criminals, whom the officers of the law had allowed or would allow to go unpunished, to drive out of the state a number of notoriously bad characters, to purify the atmosphere morally and politically and, after the work was done, to disband. He added that the names of the people, who were members of the organization, were a sufficient guarantee that there were no personal aims or ambitions or anything except the public good contemplated, and that the governor, as an officer of the law and an observer of events, must be conscious of the frightful condition of affairs throughout the state and especially in San Francisco. It was apparent that

¹ Alta California of May 17, 1856.

it could no longer be endured; that the climax had been reached in the attack upon King; that the people had resolved that they would correct the mischief if possible and they believed it was, and that when they had done so they would retire and leave the regularly constituted authorities to continue the work, if they would. "Now, Governor," he continued, "you are called upon by a mayor and a class of people here to bring out the militia and try to put down this movement. I assure you it cannot be done; and, if you attempt to do so, it will give you and us a great deal of trouble. It is not the way to treat the question. Do as McDougal did. See, as he did, that this is a mere local reform, intended to correct local abuses. Let us take up this work and get through with it, as he did, without anything more than a formal opposition by the state. Do your duty in issuing your proclamation and manifestoes and maintaining formally the dignity of the law; but leave to us the work; and we will get through with it in a very short time and quit—and quit gladly."¹

Upon this, according to Coleman's account, the governor slapped him on the shoulder and said, "Go it, old boy! but get through as quickly as you can. Don't prolong it; because there is a terrible opposition and a terrible pressure." Coleman rejoined that he had realized that before he began the work; that he understood the position King had occupied, and that all of King's opponents or most of them would become opponents of the committee; but that the great majority of the people were earnestly with the movement; that even if they did not participate personally, yet their sympathy and support would be so thoroughly with it as to make it an assured success; that it could not retire from the position it had taken; that the members of the committee did not want to be in opposition to the state; that they were as law-abiding a people as any in the world as long as there was any law; that their real object was to see that the laws were carried out and executed and, if the officers of the law would not carry them out and execute them, it devolved upon the people to do so; that they did not want to quit their business vocations and homes to do all this, but were

¹ Statement of William T. Coleman, *Century Magazine*, November, 1891, 139, 140.

compelled to; that, if the governor could see his way clear to maintain his status as governor on the record, they by all means wished him to do so, and that they did not want a single court to adjourn or a single officer to vacate his position or surrender his rights or fail in his duties; but whenever they saw such a case they were going to supply the deficiency. In response the governor said he appreciated what had been said; that he knew Coleman very well and he knew others associated with him; that he had not come of his own accord but had been called down, and that he would leave the field to them in confidence. Coleman answered that the governor was an old Californian and knew well what had passed before under similar circumstances; that, as for himself, he did not want him to feel that they were taking any advantage of his position, and that he had honestly expressed to him his convictions of the necessities of the hour and of what the committee wanted to do and would do. The governor then asked about the prisoners in the county jail and Coleman answered that all the committee wanted was that they should be safe; that as to how soon any action would be taken by the committee he could not tell; that he had been extremely busy for several days, and that he could not commit himself further than to say that the committee meant what was right and was going to do it. And with this they parted.¹

Among the persons, who had gone down to the wharf to meet the governor upon his arrival on Friday evening, was William T. Sherman, frequently mentioned in these pages. He had been appointed by the governor about a week previously major-general of the second division of the California militia. By virtue of his office he was commander of the troops in San Francisco; and it was his duty and business, if the military were to be called out by the governor, to be on hand and take his place at their head. He had been summoned by the sheriff and attended the meeting in the fourth district court-room in the afternoon of that day, but had declined to serve under the sheriff on the ground that he was obliged to meet the governor, with whom he would probably be engaged all night. After that meeting in the court-room, he was chosen captain of the citizens who formed the

¹ Statement of William T. Coleman.

sheriff's posse comitatus in the county jail; but, though he visited the jail and gave its defenders some advice to the effect substantially that it was indefensible, he declined serving as captain of a sheriff's posse or otherwise than as major-general. He therefore, after pointing out the weak points at the jail, made his way down to the Sacramento boat but missed the governor, as has been stated. As soon, however, as he found that the governor had passed him, he also made his way to the International Hotel and there met him about the time or soon after William T. Coleman had gone away. Coleman meanwhile had proceeded from the International Hotel to the county jail on Broadway street for the purpose of making a reconnoissance of the condition of affairs at that place. The sheriff and about thirty officers and some sixty citizens were on guard in or around the jail; but most of the neighboring buildings were occupied by members of the vigilance committee, who were quietly and so far unobtrusively maintaining quite as strict a guard on their own account. Everything appearing safe, Coleman proceeded to the committee rooms in Turn Verein Hall on Bush street and busied himself with his duties there.¹

Sherman was accompanied on his visit to Johnson at the International Hotel by Cornelius K. Garrison, formerly mayor of the city, and William Neely Johnson, the governor's brother. They represented to him all that had occurred, described the position of things, the small force the sheriff had and the danger of the citizens who were with him in the jail. They then took the governor to the jail and showed him how utterly indefensible it was, being overlooked on all sides by brick houses and parapet walls, and no part of the interior safe from shots except the cells, which were full of prisoners; while the entire mass of the people, so to speak, was arrayed against the civil authorities and substantially all the military force sharing the feelings of the people. All this time, as Sherman pointed out, the vigilance committee was rapidly increasing its numbers, having then about twenty-five hundred members, with all the large merchants at its head and most of the rich men, including the bankers John

¹ Sherman and the San Francisco Vigilantes, *Century Magazine*, December, 1891, 297, 298; Statement of William T. Coleman.

Parrott, William C. Ralston and Drexel, Sather & Church covertly contributing means and countenance to it. If he had told the whole truth, he might have added that he himself had subscribed towards it, though he afterwards repudiated his subscription on the ground that the committee had violated its pledges to the governor and to himself, and refused to pay anything. After thus presenting to the governor facts and circumstances sufficient to convince him of the hopelessness of making a defense at the jail, Sherman proposed to negotiate with the vigilance committee and at his suggestion the party, consisting still of the governor, Sherman, Garrison and the governor's brother, proceeded to Turn Verein Hall, reaching there about eleven o'clock, and asked to see Coleman. The governor's mind had evidently very materially changed since his interview with Coleman a few hours before, and he again asked what the committee was going to do and whether the trouble could not be settled. Coleman answered that the people were tired of having citizens shot down and other outrages committed as had been the case, and they were no longer inclined to endure them. The governor agreed with him, but was of opinion that the courts could remedy the difficulty; that the judges of the two district courts in the city, Edward Norton and John S. Hager, were good men, and that there was no need of the people rising up in a mob and obstructing the execution of the laws. Coleman replied that the committee was not a mob; that it was a deliberative body regularly organized with officers who were pledged to their duty; that its object was not to subvert the law but to assist in purging the community of bad men, who could not otherwise be reached; that the law had not been executed in San Francisco for a long time; that the courts and juries had become of no use; that if they did their duty no body of men would be more prompt to aid and support them than the committee, and that it was only on account of their failure that the people felt called upon by the most imperative sense of duty and safety to act for themselves.¹

Johnson appears to have made no objection to the existence

¹Coleman's Statement, *Century Magazine*, November, 1891, 140; Sherman's Correspondence, *Century Magazine*, December, 1891, 298, 299.

of the vigilance committee; but he insisted that Casey should be left to the regular courts; and he offered to pledge himself that there should be a speedy and fair trial and, in case of conviction, a speedy execution. He stated that he could not and would not consent to Casey being taken from the sheriff's custody; but that, if the committee felt any uncertainty about his being safely kept in the jail, there was no objection to a few men of their number being admitted as an additional guard. It was then agreed that, if such an arrangement were made, the committee would pledge itself that the men so admitted into the jail would not attempt any violence or league with those outside in an attempt to take the prisoner, and that no movement in that direction should be made without first withdrawing the guard and giving the governor notice. Coleman then called to his assistance a few other members of the executive committee; and a verbal treaty to the same effect was made between the two parties, it being also further agreed that the number of men of the vigilance committee, who were to be admitted into the jail as an additional guard, was to be ten and that they were to be admitted forthwith. It was then half past one o'clock Saturday morning. At two o'clock both parties in pursuance of the agreement met at the jail—Coleman's party with ten armed men of the vigilance committee. The sheriff made some demur, but was finally induced by the governor and General Sherman to admit the vigilance men, who were assigned a room in the building and a couple of them were allowed to stand or sit near the door of the cell where Casey was confined.¹

When the sheriff's citizen-aids, consisting as has been seen mostly of lawyers who had volunteered to stand guard in the jail, heard of the treaty with the vigilance committee, most of them took great offense that the governor and major-general should have held any communication with the "damned rebels," as they termed them, and some handed back their arms and left in disgust.² On the other hand the fact that a party of the vigi-

¹ Sherman's Correspondence, Century Magazine, December, 1891, 299; Coleman's Statement, Century Magazine, November, 1891, 140, 141.

² Memoirs of General William T. Sherman, by Himself, New York, 1875, Vol. I, 123.

lance committee had actually been admitted into and was then acting as a guard in the jail gave rise to rumors that the vigilance committee already had the custody of Casey and would not relinquish it, or something to that effect, which appears to have been carried to the governor's ears and rendered him furious. He was doubtless by that time aware that he had made a mistake by trying to please both parties and had pleased neither, and was very sensitive. He called upon Sherman at noon on Saturday and insisted upon his going with him to the vigilance committee headquarters, which had that morning been removed from Turn Verein Hall on Bush street to the rooms in the second story of the brick building occupied by the firm of Truett & Jones, wholesale liquor merchants, on the south side of Sacramento street between Davis and Front, where they remained until the committee as such finally adjourned. Upon arriving there it appears that Coleman could not be seen; but some other member of the committee responded to the call and said something in regard to the relative position of the two parties that did not please the governor. According to Sherman's account, the member, whoever he may have been, for the name given by Sherman was Seymour and there was no person of that name belonging to the committee, denied the promise of the night before, and the governor retorted by charging him with treachery and falsehood.¹ However this may have been, and whatever talk may have taken place between the governor and Sherman on one side and some member of the executive committee on the other, it is certain that the executive committee as a body did not deny or repudiate in any respect the treaty made. On the contrary, upon hearing that a question had been raised, they immediately passed resolutions to the effect that they would not make any change in their position at the county jail; that they had no further answer to make to the authorities at that time, and that

¹ Sherman's Memoirs, Vol. I, 123. Sherman repeats the name of Seymour as the member who met them on this occasion, having before used it as one of the executive committee who participated in the treaty of the night previous. As a matter of fact no person of that name was present on either occasion or was ever a member of the executive committee. There are numerous errors and inaccuracies, doubtless unintentional, throughout Sherman's accounts of the vigilance committee.

Governor Johnson should be notified that they maintained the treaty made with him the night before; but that the treaty involved no pledge on the part of the committee, except that they would make no attack on the jail while their guard remained within it. And to make sure that he should receive the resolutions, Miers F. Truett, John P. Manrow and William Arrington were appointed a committee to convey them to him, which they did.¹

While the governor and major-general were thus employed, the vigilance committee was steadily increasing its membership, which by Saturday night numbered about thirty-five hundred. King was still living; but on Friday he was reported in a critical condition. On the morning after he was shot, he had been removed from the Pacific Express office to a room in Montgomery Block, where he lay, receiving the best of nursing and attended by a number of surgeons and physicians. On Saturday he was reported somewhat better; but those best acquainted with the nature of his wound had little or no hope of his recovery. Even if he had recovered, there can be no doubt that the committee, after it once started, would have gone on. It was terribly in earnest. On Saturday the executive committee, in addition to the endorsement of the treaty made with the governor already mentioned, elected Charles Doane chief marshal of its military forces and directed him to have his men all armed and equipped and ready for action by half past eight o'clock the next morning. At the same time it sent a message to the sheriff to the effect that it had understood that the prisoners in the county jail were armed and it demanded that they should be forthwith disarmed, and, besides, warning him and those he had called around him to beware, in case of collision, of the vengeance of the people. On the same day, in view of the general unanimity of the body and the necessity of prompt action, it determined that eleven members should constitute a quorum of the executive committee, which by that time, by the addition of new members, amounted to about thirty in all.²

About eight o'clock on Sunday morning, May 18, 1856, Marshal Doane reported that the forces of the vigilance committee under his command were ready for immediate and effective serv-

¹ Vigilance Committee Record, May 17, 1856.

² Vigilance Committee Record, May 17, 1856.

ice. How the committee in so short a time had managed to arm and drill its forces into marching order was a wonder; but the arming was to some extent explained by the fact that Edward H. Parker, agent of eastern manufacturers, taking advantage of an opportunity to benefit his principals, had agreed to loan all the muskets and ball cartridges that were required; and the drilling was due to the fact that a large number of the committee were military men; and many of them had seen active service in the Mexican war or conquest of California. Several of the regular militia companies, which had disbanded rather than support the so-called law and order party, had reorganized as vigilance companies; and among them a noted artillery company known as the First California Guard, of which Thomas D. Johns was captain and James F. Curtis first lieutenant. But as they had no cannon, to serve as a counterpoise to the two pieces, which had been procured and put in position for the defense of the jail, as has been already stated, one of the first things done by the executive committee on Sunday morning, after Marshal Doane had reported his readiness to march, was to appoint Captain James D. Farwell and Richard M. Jessup a committee to immediately procure two pieces of artillery; and they were so prompt about it that within an hour a brass field piece, formerly in the service of the First California Guard, and more than a match for those at the jail, was made ready for use, supplied with horses to draw it, placed in charge of the artillery company, and directed to await instant orders. The executive committee next appointed, as a so-called "war committee" to direct the marshal and take the jail, Miers F. Truett, Edward S. Osgood, Henry S. Brown, William T. Thompson and Samuel T. Thompson, to whom was added Thomas J. L. Smiley. About the same time the committee's guard of ten men in the jail was withdrawn and a letter sent to Governor Johnson notifying him of the fact, which reached him before eleven o'clock that morning. These preliminaries being arranged, the different companies of the vigilance forces received orders to march, each being directed to take a certain prescribed route and be in a certain position in the vicinity of the jail at a certain time, without knowing anything about the orders given to any other company.¹

¹ *Vigilance Committee Record, May 18, 1856.*

The different companies started about noon and, marching by different routes, took up their various positions. There were about fifteen hundred men under arms. Some marched up Kearny street, others up Dupont street, and still others up Stockton street. When they halted, most found themselves on Broadway street in front of or near the jail, others on adjoining streets and some on the hill-side north and east of the jail. They came together with admirable, almost mathematical precision; and, as they fell into position, they of course understood what was intended. It was an extraordinary spectacle. The whole place was closely invested by armed men, not indeed in uniform, but with muskets and bayonets flashing in the brilliant sunlight. Some few had hunting rifles or shot-guns, and one tall Nantucket whaleman, besides a navy revolver in his belt, carried a harpoon and several fathoms of rope on his shoulder. Around and, as it were, hemming in all, crowding the streets, covering the summit and vacant slopes of Telegraph Hill and the neighboring roofs and filling porticoes and windows, were dense masses of people, eager to see what was to be done and hushed in expectation.¹

When the infantry had taken their places, the artillery company advanced up Kearny street into Broadway and, passing between the opened ranks of soldiers, planted their cannon in the middle of the street with its muzzle pointing directly at the front door of the prison. They then proceeded deliberately to load it. In the meanwhile, soon after noon, a written summons, issued by and in the name of the vigilance committee, had been served upon Sheriff Scannell requiring him to forthwith surrender the possession of the jail to the citizens presenting the demand and prevent the effusion of blood by instant compliance. Though this summons had not been obeyed, there were no signs of any attempt to defend the jail against the overwhelming force brought against it. At one o'clock, everything being ready for an attack if necessary, Coleman, Truett and a couple of others of the executive committee, who had been in waiting at the corner of Broadway and Stockton streets, drove to the lines in front of the prison, when the ranks again opened, and they were saluted by the marshal

¹ Dr. William O. Ayers, in Overland Monthly of August, 1886, 168; Statement of William T. Coleman.

and his staff and the lines presented arms. They then alighted and asked whether the demand for the surrender of the jail had been served. The answer was that it had. They then asked if the prisoners were forthcoming. The reply was that Casey would not surrender, that he was armed with a long keen knife and had assumed a menacing and defiant attitude. Coleman and Truett thereupon stepped up to the prison door and demanded entrance. The door was opened; and they passed in, leaving a guard of reliable men at the entrance. They then asked for Casey and were taken by the sheriff to his cell. Casey was wild and brandishing his weapon. He at first refused to be taken, but finally consented, upon being assured that he should be well treated and have a fair trial. Thereupon the cell was opened; and Casey, having given up his knife, was led by Coleman and Truett, without handcuffs or manacles, to the front door of the jail and from there by the guard down the steps to the carriage, from which Coleman and Truett had alighted. The appearance of Casey in the custody of the guard was the signal of an involuntary burst of applause; but it was instantly hushed by a deprecatory gesture from Coleman. Casey was ordered to enter the carriage; and, as soon as he had done so, Coleman and Truett followed, when the carriage, accompanied by a large part of the military force and an immense rush of the people, drove to the vigilance committee head-quarters on Sacramento street, where Casey was placed in strict confinement and no one allowed to see or converse with him. Upon a search at that place, it was found that he had another knife concealed in his boot, which was of course at once taken away from him.¹

It was about two o'clock when the vigilance committee thus incarcerated Casey in their head-quarters. But they did not consider the day's work done and almost immediately started back to the jail after Cora. There was at first some demur on the part of the sheriff and some delay in getting him; but he finally appeared, was placed in the carriage, driven to head-quarters with an escort and incarcerated in the same manner as Casey had been. It had been determined by the war committee

¹ Vigilance Committee Record, May 18, 1856; Statement of William T. Coleman.

to leave the jail in the possession of the sheriff after the removal of Cora; and directly after that took place, all the vigilance forces, with the exception of a small guard, withdrew. Most of the companies, instead of being immediately dismissed, marched down to the wharves and discharged their shots into the waters of the bay. In the meanwhile Governor Johnson, Mayor Van Ness and a number of their friends were on the roof of the International Hotel on Jackson street. The governor sent for General Sherman to come there. Upon Sherman's arrival the governor simply pointed towards the jail, which was in full view. Sherman saw that all the houses commanding a view were covered with people; Telegraph Hill was black with them, and the streets were a complete jam. Johnson said that he had received word at half past ten o'clock of the withdrawal of the vigilance guard from the jail and the end of the treaty; that he had at once gone to the jail and found the sheriff there; that the sheriff had asked for instructions how to act in case the committee demanded the prisoners, and that he had replied that, if the committee appeared in sufficient force to make resistance idle, he might surrender the prisoners under protest. Both agreed that if the sheriff should fire on the committee, the effect would be terrible. Sherman thought, when he reached the roof of the hotel, that there must be at least ten thousand people within rifle-shot of the jail; and he remained long enough to see some of the military evolutions; to see Marshal Doane, the commander, on his white horse; to see the carriage drive up to the jail door; to see Casey brought out and hear the hastily suppressed shout, and to see the procession that escorted Casey to the vigilance committee head-quarters disappear as it turned into Sacramento street on its way thither.¹

¹Sherman Correspondence, Century Magazine, December, 1891, 299, 300; Statement of William T. Coleman; Alta California of May 19, 1856.

CHAPTER IX.

VIGILANCE COMMITTEE OF 1856 (CONTINUED).

WHEN Casey and Cora had thus been removed from the jail, the only prisoner remaining there, in whom the vigilance committee seemed to manifest any special interest, was a young man named Rodman M. Backus. He was of good family, had been in the employ of Wells, Fargo & Co.'s Express and had many respectable and influential friends. He appears to have become infatuated with a woman of the town, called Jenny French, who lived on Stout's alley running from Washington street to Jackson between Dupont and Stockton. On the evening of January 24, 1855, between six and seven o'clock, upon going to her place, Backus met her at the door; and she pointed to a man on the opposite side of the alley and said he had broken open her window and insulted her or something to that effect. Backus thereupon, without ever having seen the man before or making any further inquiry, drew a pistol and started after him. The man, who proved to be a harmless individual known as Frederick Oldman, ran into Washington street and had nearly reached Dupont, when Backus fired; and the ball, entering back of the ear, killed him instantly. It was a case of reckless and wanton homicide, without justification or excuse; but the coroner's jury a day or two afterwards returned a verdict that the killing was "done by said Backus in self-defense in order to protect his life and property from the hands of a midnight assassin." This extraordinary verdict was intended to clear Backus; but the grand jury took a different view of the matter and indicted him for murder. In February he was tried; and, much to the surprise of himself and particularly of his attorneys who expected an acquittal notwithstanding his guilt, he was convicted of manslaughter and sentenced to imprisonment in the state prison for three years and a fine of one

hundred dollars. The jury, at the time of rendering their verdict, signed a petition for his pardon; but Judge Delos Lake in his sentence imposed the largest term of imprisonment at that time prescribed by law for manslaughter. The spirit with which the case was prosecuted was due principally to the fact that Oldman was a German and that a number of the Germans of the city had clubbed together and employed counsel to assist the district attorney. But Backus and his attorneys were not satisfied and appealed to the supreme court, which reversed the judgment and sent the case back for a new trial.¹

In adjudicating the case the supreme court had decided that by the verdict of manslaughter Backus had been acquitted of the crime of murder and could only be retried for manslaughter. But neither he nor his attorneys were as anxious for a second trial as they had been for the first one; and he lay in jail biding his time. They, however, waited too long. After the establishment of the Bulletin and the commencement of its prying into the administration of the laws by the courts, and particularly after the excitement occasioned by the murder of Richardson by Cora, there was very little chance with such a record as existed against him to acquit Backus. Even then he felt alarmed. But when the murder of King took place and the vigilance committee commenced forming, he was in mortal terror. From this, however, he was delivered by a proposition to withdraw his application for a new trial and accept the sentence that had previously been pronounced against him—at which he eagerly caught; and, an arrangement to this effect having been made and approved by the vigilance committee, he was allowed to remain in the jail until the next day when he was removed to the state prison. He remained there from May 19, 1856, to August 3, 1858, when he was pardoned by Governor John B. Weller and soon afterwards left the state.²

It had at first, immediately after the incarceration of Casey and Cora in the vigilance committee rooms, been determined that no one should be permitted to see or communicate with

¹ Alta California of January 25 and 26, February 23-26 and March 19, 1855; People *vs.* Backus, 5 Cal. 275.

² Vigilance Committee Record, May 18, 1856; People *vs.* Backus, 5 Cal., 275; State Prison Records for 1856 and 1858.

them. In accordance with this resolution, Joseph S. Alemany, archbishop of the Catholic church, who had on Sunday afternoon requested to see Casey as his spiritual adviser, was not allowed to do so. The supposition on that day among many persons was that the prisoners would be executed in very short order; and the archbishop doubtless was of that impression. But the committee had no idea of proceeding in that manner and, in refusing the request of the prelate, merely deferred it. George F. James, one of Cora's attorneys, who probably did more to procure a disagreement of the jury on his trial than any other person, on the same day sent in a communication to the executive committee to the effect that he had been credibly informed that James P. Casey and Charles Cora, both clients of his, were in their custody; that he was desirous of seeing whether they wished to hold any further communication with him, and that, if so, they would confer a favor by admitting him to an interview with them. The executive committee answered that Casey and Cora did not require his services. On matters connected strictly with his business and financial affairs, Casey was allowed to see a few persons in the presence of a member of the executive committee; and he was allowed to write to his mother in New York, to whom he appeared to be greatly attached. Hampton North, marshal of the city police and a particular friend of Casey, was admitted to report the names of David Mahoney, John W. Bagley, Robert Cushing and a few others as specially inimical to the prisoner; but he was not at that time permitted to see him.¹

The trial of Casey and Cora was fixed for May 20 before the executive committee; and it was resolved that the decision should be by ballot; that a majority might convict, and that, in case of conviction, it should be reported to the general body of the committee for approval as a unanimous vote. On the morning of that day and before the trial commenced, a committee of three persons was, on motion of Coleman, appointed to wait on the governor of the state and on the mayor of the city and assure them that the vigilance committee had no thought of interfering with the regular discharge of their duties and only

¹ Vigilance Committee Record, May 18, 1856.

desired to take cognizance of outrageous cases of crime and rowdyism, which the laws had been tardy or failed in reaching; that it did not intend to interfere with the ordinary execution of the law or the maintenance of order but desired peace; and, as that was the consummation aimed at, it would be pleased to see the legally constituted authorities proceed in civil and ordinary criminal cases as if the committee were not in existence. It was next resolved, in view of the large number of the vigilance committee and the impracticability of communicating with it directly, that the respective companies should severally elect two members, who with their captains, should constitute a board of delegates with full power to represent their respective companies; and that the board of delegates should be ready for action the next day. It was further resolved, in reference to the trials about to take place, that after a trial commenced there should be no recess for more than thirty minutes until it was concluded; that only one person should be allowed to ask questions of the witnesses on their direct examination, though after such examination any member should have an opportunity to make any inquiry or to cross-examine; and that each prisoner should have the privilege of choosing any member of the executive committee as his attorney to assist in his defense.¹

These preliminaries having been arranged, an oath was taken by the executive committee to the effect that they pledged their sacred honor to God and each other not to divulge the votes taken in their verdicts to any living being outside their rooms; and thereupon Cora was brought before them and put upon his trial for the murder of Richardson. He chose Miers F. Truett as his attorney; but Truett asked to be assisted by Thomas J. L. Smiley; and it was allowed. At half past one o'clock, soon after the trial commenced, Marshal Doane announced the death of James King of William and the intense excitement pervading the city; but the committee simply directed him to notify the people that the trials of Cora and Casey were progressing with proper deliberation, and proceeded with the trial. There were a number of witnesses; for the committee had sent for all named by Cora as well as for those who testified against him; and all

¹ Vigilance Committee Record, May 18 and 20, 1856.

were heard. As soon as the trial of Cora was concluded, that of Casey was taken up and proceeded with in the same manner; and each was unanimously declared guilty of murder. It appears that the committee sat all night and only took a recess the next morning after the trials were finished. A meeting of the board of delegates was then called and it met almost forthwith, consisting of eighty-one members or three from each of twenty-seven companies or divisions. As soon as it had organized an oath was administered to it similar to that taken by the executive committee; the testimony in the cases of Casey and Cora was then read over; the verdicts of guilty unanimously approved, and the executive committee authorized to fix the time and place of execution. Upon the withdrawal of the board of delegates, the executive committee fixed Friday, May 23, at twelve o'clock noon as the time for execution; and Truett, Smiley and J. W. Brittan were instructed to inform the prisoners of their fate and that any request to see a spiritual or legal adviser would be complied with. About the same time the sheriff and his deputy presented themselves at the door of the committee rooms with a writ of habeas corpus, issued out of one of the district courts for the person of Casey; but all the satisfaction they got was an euphemistic answer that they had performed their duty strictly according to law and that such was all the reply the committee had to make to the writ.¹

The death of King was not unexpected; but when it occurred at half past one o'clock on the afternoon of Tuesday, May 20, 1856, it fell upon the city like a pall. From the time of the shooting the most intense anxiety had been manifested; every few hours a bulletin of the condition of the sufferer had been posted up and the news flew from point to point, and little or nothing was thought of or talked about except his condition and the probable action of the vigilance committee. Up to Sunday, when Casey was taken from the jail, King's condition was not altogether unsatisfactory; and it was said that he heard and remarked the massive tread of the vigilance hosts escorting Casey to their headquarters, as they marched past Montgomery Block. But from that time he began to fail. On Monday his

¹ Vigilance Committee Record, May 20 and 21, 1856.

pulse rose rapidly and he appeared to be in great distress. In the afternoon he was placed under the influence of chloroform; the bandages and sponge with which his external wound had been closed, were removed and an examination made to ascertain the condition of the subclavian artery, near which the ball had passed. Being found unbroken, it was deemed unnecessary to ligate or take it up. But after some few hours of comparative ease, he grew worse again; on Tuesday, after a restless night, unfavorable symptoms increased, and at the time mentioned he breathed his last. At the announcement of his death, business of all kinds immediately ceased; stores and offices and trading houses closed or only remained open to be draped in mourning; and in a very short time most of the hotels and principal buildings and many private residences were dressed in black. Many of the church and engine-house bells began to toll, and over all the city and on the shipping in the harbor flags were displayed at half mast. It was a spontaneous expression of regret and respect on the part of the city, since equaled only perhaps in the cases of the deaths of Lincoln and Garfield. And as in those cases, as the news spread on the wings of the electric current throughout the interior, the sorrow and sadness spread; and Sacramento, Stockton, Marysville, Nevada, San José and in fact all the state joined with the city by the bay in universal mourning.¹

Towards evening on the day of his death, King's body was exposed in the room in Montgomery Block, in which he had died; and for five or six hours a continuous stream of people passed by and looked at it. Visitors placed themselves in line, which at times extended for several blocks and altogether consisted of many thousands of persons. On Wednesday an autopsy and inquest were held; but nothing new was elicited. On Thursday the funeral took place. It was fixed for twelve o'clock; but long before that hour the streets through which the cortége was to pass, and particularly Stockton street, were densely packed with spectators. At noon the hearse, containing the body, drawn by four white horses, attended by fourteen pall-bearers, preceded by the Masonic fraternity in regalia and followed by the mourning

¹ Alta California of May 20 and 21, 1856.

family and friends, proceeded to the Unitarian church on Stockton street between Clay and Sacramento, where religious services were held. These being ended, the procession formed again with the Masons, royal arch chapter, in front, then the officiating clergymen, next the surgeons, then the hearse and pall-bearers, ten coaches of family and friends, attachés of the Evening Bulletin, California Pioneers in regalia, members of the press, Sacramento guards in uniform, San Francisco fire department, San Francisco minstrels, St. Mary's library association, three hundred and twenty draymen on horseback, stevedores' association, German benevolent societies, Turn Verein association, delegation of colored persons and thirty or forty carriages of citizens closing up the rear. Most of the procession marched four abreast in close order; and it was about a mile long. Its route was from the church along Stockton street to Washington, down Washington to Montgomery, along Montgomery to Bush and out Bush to Lone Mountain cemetery. No spectacle of the kind or to at all compare with it had been seen in San Francisco. The population of the city at that time was about fifty thousand persons; and nearly every man, woman and child, besides many visitors from other places, were in the streets.¹

Meanwhile the vigilance committee was also busy. The executive body had met at six o'clock in the morning and, reconsidering the vote of the day before to execute the prisoners on Friday, determined that the execution should take place that afternoon between twelve and two o'clock, while the funeral cortége of King was moving through the streets. It was also determined that they should be hanged in front of the windows of the vigilance head-quarters. A committee on details of the execution was appointed and instructed to make the necessary preparations, while Casey and Cora were informed of the action and directed to prepare for death. At the request of Cora, Arabella Ryan, or Belle Cora as she was usually known, was sent for and made her appearance; and afterwards between eleven and twelve o'clock, an hour or two before his execution, Cora and she were married in the vigilance committee rooms by Father Michael Accolti of the Catholic church. It was said that the

¹Alta California of May 21, 22 and 23, 1856.

priest had refused Cora absolution until the marriage ceremony had been performed; but the more probable account was that the woman, who was devoted to the man, desired it as well as Cora himself. At the request of Casey, Charles Gallagher was sent for and took charge of his private papers. A daguerreotype of Casey and City-Marshal Hampton North on the same plate was given to the latter. Casey wrote to his mother and at half past twelve o'clock he wrote to John Nugent, editor of the Herald, saying that Nugent had not represented his case so as to satisfy the public; that if he would see Estell, Farley, Peckham and others he might yet satisfy the public that he was right; that he was innocent of murder or an attempt to murder, and that for his mother's sake Nugent should save his name in New York. Immediately after conviction the spiritual advisers of both men had been admitted; and Archbishop Alemany spent a long time with them. ¹

The preparations for the execution were very simple. Wooden platforms were run out from the windows of the second story fronting on Sacramento street, extending about a yard beyond the line of the building and provided with hinges at the outer edges of the window-sills. These platforms were held in horizontal position by cords fastened at their outer ends, passing up to beams which projected from the roof of the building directly over them and then to the top of the building out of sight. To the projecting beams were also attached the fatal ropes with nooses and slip knots, prepared beforehand. While these were being arranged, immense crowds filled all the streets, the vacant fifty-vara lots in front of the building, and the house tops for blocks around; and, as the news of the preparations spread wider and wider, the crowds grew denser and denser. About half-past twelve o'clock there was a mighty rush from the scene of the funeral on Stockton street to the scene of the execution on Sacramento street. It was estimated that nearly twenty thousand people hurried to the spot. And yet only comparatively few saw or heard much. Shortly before the execution took place almost the entire committee by companies, several thousand in number, were marched into and cleared the streets

¹ Vigilance Committee Record, May 22, 1856.

in the immediate vicinity and took their places in long lines, many deep and bristling with bayonets. At the same time a cannon was advanced so as to command Front street and another to command Davis street. Armed men also covered the roofs, not only of the committee building but adjoining structures.¹

Soon after one o'clock, the prisoners were brought to the windows and placed upon the platforms. They were dressed as usual; but their arms were pinioned. Each was accompanied by a priest and each appeared firm. An opportunity being given them to speak, Casey, in an excited tone, said he hoped this would be forever engraved upon the minds and hearts of all who heard him, that he was no murderer. Let no one call him a murderer or an assassin. Let not the Alta, the Chronicle or the Globe, which had so bitterly denounced him—let no newspaper or editor slander his name or memory by stigmatizing him or sending his name abroad as a murderer. He had not committed murder or attempted to commit murder. His faults were the faults of his early education. Where he belonged he was taught to fight and that it was his right and duty to resent an injury. This he had done; but he was not a murderer. Let no man, who should see his funeral train to-morrow, cry, There goes the body of a murderer. He had an aged mother—let her not hear him called a murderer or an assassin. He had always resented wrong and he had done it now. "Oh, my poor mother, my poor mother," he exclaimed, "how her heart will bleed at this news! It is her pain I feel now. This will wring her heart; but she will not believe me a murderer. I but resented an injury. Oh, my mother, my poor mother, God bless you. Gentlemen, I pardon you. I hope God will forgive you. I hope He will forgive me. Amen. Oh, my poor mother. God have mercy upon me. My Jesus, take care of me. Oh God, with accumulated guilt of twenty-eight or twenty-nine years, have mercy upon me. Oh, my poor mother!" At this he seemed to grow weak and was unable to stand without support. Father Anthony Maraschi was at his side and constantly begging him to stop speaking and to pray. He offered him the crucifix,

¹ Alta California of May 23, 1856.

which Casey kissed several times. While all this was going on at the window nearest Davis street, Cora stood on his platform at the other window perfectly silent and apparently unmoved. When asked if he wished to speak, he shook his head; and then, except for kissing the crucifix which was pressed to his lips several times by Father Accolti, he stood like a statue. At twenty-one minutes past one o'clock, Casey having finished speaking and the legs of each man having been strapped together, the ropes were adjusted about their necks, white caps were drawn over their heads, and, at a signal from within the building, the ropes holding up the platforms were severed on the roof of the building and the doomed men fell a distance of about six feet. They died apparently without a struggle, only a slight motion of the extremities being noticed.¹

The bodies hung for an hour, after which they were lowered and taken into the building. The vigilance companies, which had acted as guards, were then marched, one after the other, into the rooms, where they deposited their arms and were dismissed. Soon afterwards the bodies of the executed men were handed over to the coroner, who held an inquest upon them. That of Casey was then given to Crescent Engine Company No. 10, of which he had been foreman; and on the succeeding Sunday it was buried by that company, accompanied by a retinue of friends and others opposed to the vigilance committee, in the old grave-yard attached to the Mission Dolores church. That of Cora was given to his widow, and it was buried by her in the same cemetery, but with less ostentation. Over both elaborate stone monuments were erected—that of Cora merely giving his name and the time of his death; that of Casey with the emblems of the fire company, a declaration that he had been murdered by the vigilance committee, and a prayer—which in view of all the other circumstances was not sincere on the part of Crescent Engine Company No. 10—that God would forgive his persecutors.²

¹ Alta California of May 23, 1856; Vigilance Committee Record, May 22, 1856.

² Alta California of May 23, 1856; Dr. Wm. O. Ayres' Personal Recollections, Overland Monthly of August, 1886, 171; Monuments in Mission Dolores cemetery.

Having thus deliberately assumed the exercise of the highest functions known to the law, the vigilance committee still more fully than before realized that it had undertaken a very grave responsibility; and one of its first cares, after it fully recognized this fact, was to purge its ranks of objectionable characters. The appointment of a committee on qualifications had been among its earliest acts; but, though some undesirable applicants for membership had been rejected, others were known to have been admitted; and great solicitude was manifested by the executive committee to get rid of them. On May 17, the day after the general body had been divided up into companies, each company was directed to appoint a sub-committee to examine into the characters of its own members and report to the executive committee; and on May 23, the day after the execution of Casey and Cora, the delegates were requested to assemble in convention and report the numbers and names of objectionable members, together with the names of witnesses and condensed statements of evidence. This was calculated to weed out and exclude bad characters, who either to screen themselves or to effect evil objects had crowded into the organization. Another matter, which received immediate attention, was the too great readiness of members of the committee to listen to idle stories; and they were instructed to make no arrests unless directed by the executive committee, except in cases of overt crime committed in their presence or upon such evidence as would make it the duty of every good citizen to arrest. Still another matter, not yet causing any trouble but felt to be of very great importance if the existence of the body was to be prolonged any length of time, was the question of finances. There had been a number of contributions by prominent citizens; but the expenses were already heavy; and it seemed evident that they would run up into large amounts and that some general statement of them would be desirable and proper for the satisfaction of the contributors. Under the circumstances it was determined that strict account should be kept; and, as a preliminary to start with, it was resolved on May 23 that all the cigars and liquors used up to that time by the executive committee should be paid for by equal subscriptions among themselves and that thereafter each

member should furnish himself with such luxuries if he required them, so that the community could not find fault with the committee for spending its money uselessly.¹

The executive committee next proceeded to effect a more complete and systematic organization. It had commenced, as has been stated, with twenty-six members; but it had been growing by new accessions every day until it numbered thirty-seven. On May 23 all the previous sub-committees of its body were annulled and new standing committees appointed on the various subjects of finance, arms, by-laws, military, rooms, commissary, investigation, police, evidence, qualifications, communications, auditing and surveillance respectively. Nearly every committeeman appointed was of the best character of the business community and of the highest respectability then and afterwards. From the number and care of selection of these committees, it was evident that the work contemplated was to be extensive and also to be thorough. And almost immediately after the selection and announcement of its sub-committees, the executive committee proceeded to formulate a black list of decidedly bad characters, on which were inscribed the names of Billy Mulligan, Bill Lewis, Dan. Aldrich, John W. Bagley, Martin Gallagher and Yankee Sullivan; and the names of James Cusick, Ira Cole, John Crowe, Vi. Turner, John S. Musgrove and George F. James were reported for investigation. But at the same time it was determined, in order to secure careful consideration, that no action should be taken on the black list without the concurrence of at least two-thirds of all the members present at any vote. At the same time also, and in fact all the time after the seizure of Casey, efforts were made to arrest Edward McGowan and Peter Wightman as accessories in the murder of King. There can be no doubt, as has already been stated, that they knew beforehand that Casey intended to attack King; but nothing was shown at that time or has been shown since to prove them in any proper sense of the term accomplices in the murder. However this may be, they soon became aware of the fact that they were in danger and secreted themselves. Searches were instituted and large rewards offered for their

¹ Vigilance Committee Record, May 23, 1856.

arrest and delivery to the committee. But they managed to escape, and their adventures as fugitives, particularly those of McGowan and the vain chase after him, formed a very remarkable episode in the history of the vigilance committee, which will be noticed further on. In the search for McGowan that immediately took place, and especially in the entry of certain houses by unauthorized members of the committee, more or less force and insolence were displayed; but, as soon as attention was called to the matter, the executive committee promptly resolved that no searches or arrests should be made unless on its written order, except in cases of overt crime; and a communication was sent to William Oscar Smith, its chief of police, not to enter any building forcibly. And, as considerable talk and complaint had been made by persons unfriendly to the committee in reference to the subject, Miers F. Truett and George R. Ward were appointed a committee to correct false reports and impressions and disclaim any disposition to make forcible entry into any building or in any way abuse the power of search.¹

On Sunday, May 25, George R. Ward gave notice that he would introduce for the consideration of the committee an invitation to Thomas W. Freelon, judge, and Charles N. Chamberlain and Lawrence Ryan, associate judges of the court of sessions, to resign their offices, preparatory to extending a similar invitation to David Scannell sheriff, Thomas Hayes county clerk, Henry H. Byrne district attorney, James W. Stillman assessor and other county officers, who might be deemed objectionable. This attracted much attention and elicited considerable discussion; and a public meeting of citizens afterwards took it up and acted on it; but the committee of vigilance as such did substantially nothing further on the subject. On the same Sunday, however, the executive committee, after appointing a committee on foreign relations, designed to furnish transportation to those persons whom it might require to leave the state, commenced the work of cleaning out the Augean stable by ordering the arrest of Billy Mulligan and the five others whose names had been put on the black list. And in view of the work thus initiated and in sight, and to secure more help in attending to

¹ Vigilance Committee Record, May 24, 1856.

it, the executive committee, after rescinding a rule fixing its own number at thirty-seven, resolved that it might be increased, but not to exceed fifty. At an evening session on the same Sunday, Clancy J. Dempster, chairman of the committee on by-laws, who was known as the Thomas Jefferson of the movement, reported the draft of a constitution for the committee of vigilance, which was carefully read and considered and, after some slight amendments, approved by sections and then adopted as a whole.¹

This remarkable document, which was an expression of the ideas that had so far been gradually evolved in the prosecution of the objects of the committee, commenced with a preamble to the effect that, whereas it had become apparent to the citizens of San Francisco that there was no security for life and property, either under the regulations of society as it existed or under the laws as they were administered; that by the association of bad characters ballot-boxes had been stolen and others substituted or stuffed with votes that had not been polled, and thereby elections had been nullified and the dearest rights violated; and no other method was left by which the will of the people could be manifested: therefore, the citizens, whose names were attached, united themselves into an association for the maintenance of peace and the good order of society, the preservation of life and property and to insure that ballot-boxes should thereafter express the actual and unforged will of the majority of the citizens; and they bound themselves, each to the other, by a solemn oath, to do and perform every just and lawful act for the maintenance of order and to sustain the laws when faithfully and properly administered. But they were determined that no thief, burglar, incendiary, assassin, ballot-box stuffer or other disturber of the peace should escape punishment, either by the quibbles of the law, the insecurity of prisons, the carelessness or corruption of police, or the laxity of those who pretended to administer justice; and to secure these objects they agreed: That the name and style of the association should be the Committee of Vigilance for the protection of the ballot-box, the lives, liberty and property of the citizens and residents of the

¹Vigilance Committee Record, May 25, 1856; Statement of William T. Coleman.

city of San Francisco; that there should be rooms provided for the deliberations of the committee, at which one or more members should at all hours of the day and night be in attendance to receive reports of any act of violence to person or property; and, if any such act should be considered as justifying or demanding the interference of the committee, either in aiding in the execution of the laws or the prompt and summary punishment of the offender, the committee should at once assemble for the purpose of taking such action as the majority present might determine; that it should be the duty of any member or members present at the rooms, whenever a general assemblage of the committee should be deemed necessary, to cause a call to be made in such manner as should be found advisable; that whereas an executive committee had been chosen by the general committee, it should be the duty of said executive committee to deliberate and act upon all important questions and decide upon the measures necessary to carry out the objects of the association; that whereas the general committee had been organized into subdivisions the executive committee should have power to call, whenever they might so determine, a board of delegates, to consist of three representatives from each subdivision, to confer with them upon matters of vital importance; that all matters of detail and government should be embraced in a code of by-laws; that the action of the body should be entirely free from all considerations of or participation in the merits or demerits or opinions or acts of any and all sects, political parties or sectional divisions in the community; that every class of orderly citizens of whatever sect, party or nativity might become members of the body, and no discussion of political, sectional or sectarian subjects should be allowed in the rooms of the association; that no person accused before it should be punished until after fair and impartial trial and conviction; that whenever the general committee had assembled for deliberation the decision of the majority upon any question submitted to them by the executive committee should be binding upon the whole, provided, nevertheless, that when the delegates were deliberating upon the punishment to be awarded to any criminals, no vote inflicting the death penalty should be binding unless passed by

two-thirds of those present and entitled to vote; that all good citizens should be eligible for admission to the body under such regulations as might be prescribed by the committee on qualifications; and, if any unworthy persons gained admission, they should on due proof be expelled. "And believing ourselves to be executors of the will of the majority of our citizens," so ended the document, "we do pledge our sacred honor to defend and sustain each other in carrying out the determined action of this committee at the hazard of our lives and our fortunes."¹

On Monday, May 26, before the work on the black list commenced, several preliminary matters were disposed of. It was ordered in the first place that all documents and notices emanating from the committee should bear the official seal of the executive committee. This consisted of the stamp of an open eye, denoting sleepless vigilance, above which was the word "Committee" and below the words "Fiat Justitia Ruat Cœlum. No Creed—No Party—No Sectional Issues." In the next place it was resolved that a prisoner could not be released except on a two-thirds vote of the executive committee. And again it was resolved that no member of the committee could by mere resignation withdraw from the relations, which he held towards the society. Like almost every other important rule of the committee this resolution was evolved out of the special circumstances of a particular case, where "No. 496," apparently on account of some personal dissatisfaction, attempted to sever his connection with the association. A second case of somewhat similar character occurred in reference to "No. 26" the next day. It was resolved that the member should be first censured and then his resignation accepted; but soon afterwards, on motion of George R. Ward, the acceptance of the resignation was revoked and the member informed that though under censure his obligations continued. It was thus very plain from every movement made by the committee that it meant strict business; and this was confirmed by the arrest on Monday, May 26, and the trial on Tuesday evening, May 27, before the executive committee, of Billy Mulligan, Yankee Sullivan and Martin Gallagher. This trial, which was partly upon depositions taken by the committee and

¹ San Francisco newspapers of June 14, 1856.

partly on oral testimony, resulted in the conviction and sentence the same night, as embodied in the adoption of a preamble and resolution, to the effect that whereas the evidence adduced had established conclusively that the accused had for years been disturbers of the peace of the city, destroyers of the purity of elections, active members and leaders of an organized gang who had invaded the sanctity of the ballot-boxes, and perfect pests to society; therefore, resolved that they should be transported out of the territory of the United States at the earliest practicable moment and that they should be warned never to return to California under penalty of death.¹

The next persons arrested were Billy Carr on Wednesday and William alias Woolley Kearney on Thursday. They were tried on Friday and convicted and sentenced in the same terms as Billy Mulligan, Martin Gallagher and Yankee Sullivan. In the meanwhile on Wednesday a plan was adopted for the reorganization of the police department, according to which a chief of police was to be elected by the executive committee and he to nominate a lieutenant and five policemen—all to receive salaries. An election being forthwith held, James F. Curtis was chosen chief of police by a large majority over William Oscar Smith, the previous chief. The latter, not being pleased, appeared next day and desired of the committee an explanation why another chief of police had been appointed, whereupon the committee resolved that the title of Curtis, instead of chief, should be director of police but at the same time distinctly declared that he should have full power over the department, to appoint and remove whom he might please. Soon afterwards Smith was sent for to explain the circumstances of a search the night before of the private residence of Joseph C. Palmer at the corner of Stockton and Green streets, of which Palmer had made complaint. Upon inquiry it appeared that on the night in question an individual wearing a white hat, which had been one of the distinguishing marks of Edward McGowan, was seen to enter Palmer's house; and, it being reported that McGowan was there in hiding, Smith sent his men and made the search complained of. The man with the white hat proved to be Joshua P. Haven. On being interro-

¹ Vigilance Committee Record, May 26, 27 and 30, 1856.

gated Smith stated that he did not know the person who gave the information or even his name; and his subordinates, when asked, said they were equally ignorant and acted entirely under the orders of their chief. This showing was not a good one; but Smith seems to have considered himself wronged; and immediately after retiring he sent in a letter tendering his resignation as "nominal chief of police" and taking occasion to remark that he did not think himself treated with the courtesy usually extended to officers on being superseded. The committee replied by a resolution dismissing him from his office as chief of police and striking his name from the roll as a member of the committee. At the same time it reiterated that no search of any building or place should be made or allowed by any person connected with the organization unless authorized by an order of the executive committee under its seal and the signature of the secretary. A few days afterwards, however, Smith was reinstated as a member of the committee; and it seems likely that he was thenceforth considerably less obtrusive.¹

About the time of Wooley Kearney's arrest and said by some to have been found in his shanty on Mission street near Fourth, but as a matter of fact found by Captain Isaiah W. Lees of the regular police in a saloon on First street near Mission, was one of the so-called double improved back-action ballot-boxes, before mentioned, by means of which so many persons had been fraudulently returned as elected to office. It was apparently only one of many; but, as it was a good specimen of the article, the vigilance committee managed to get hold of it; provided a case in which to display it; and the exhibition was a matter of interest on several subsequent occasions, as will be seen further along. For the time it formed one of the curiosities of the general committee rooms, where it exerted great influence, by its powerful though mute suggestiveness of how elections had been managed, in keeping the committee up to its malodorous and disagreeable but incalculably beneficial work. On the evening of the day on which Carr and Kearney, the supposed custodian of the voting machine, were tried and convicted, the board of delegates was

¹ Vigilance Committee Record, May 28 and 29 and June 1, 1856; Alta California of May 30, 1856.

called together for the second time; when the testimony, verdicts and sentences of the executive committee in the cases of Billy Mulligan, Yankee Sullivan, Martin Gallagher, Billy Carr and Woolley Kearney were read over, submitted and unanimously approved and confirmed. At the same meeting the constitution, which had previously been adopted by the executive committee, was approved by the delegates as the constitution of the committee of vigilance in general.¹

The prisoners thus convicted and sentenced to transportation were confined in small rooms on the second floor of the committee building. They were not kept entirely apart from their friends. But the seclusion, such as it was, added to the sudden lack of accustomed alcoholic stimulus, together perhaps with the consciousness of being a worse man than he was taken for and the fear of further exposure and due punishment, had so depressing an effect upon Yankee Sullivan as to drive him to commit suicide. This man was by birth an Irishman; but he had lived in England and was from there in early life transported to Australia for larceny. He afterwards found a market for his bodily strength and activity in the profession of prize-fighting. His real name seems to have been Francis Murray, though he was sometimes known as James Sullivan; but in one of his fights he wore the American colors and from that circumstance got the name of Yankee Sullivan, by which he was afterwards most generally known. He was a man of low instincts and cowardly nature, utterly unworthy of trust or confidence. While knocking around some of the vile dens of New York, he had learned something about the methods employed by enterprising politicians in carrying the elections of that metropolis. In San Francisco he naturally drifted into the companionship of such men as Billy Mulligan and Woolley Kearney; and, being equally skillful either as a pugilist or as a ballot-box manipulator, both of which characters were valuable in those days, his services were in demand and he found immediate employment. For his abilities in these respects he was made an officer of election and assigned to the Presidio district. He had there, in company with a few

¹Vigilance Committee Record, May 28, 29 and 30, 1856; Statement of Isaiah W. Lees; Alta California of May 30, 1856.

others of character similar to his own, managed to return James P. Casey as duly elected to the office of supervisor, though Casey had not been a candidate and never thought of the office until several days after the election.¹

When Casey was executed on May 22 and the armed forces of the vigilance committee filled up Sacramento street in front of the vigilance building, Yankee Sullivan was observed walking up and down the street in great alarm at the rear of the lines.² On the succeeding Monday, when he was arrested, he was still more alarmed; and after his conviction and sentence of banishment on Tuesday, he became terribly frightened, believing that the committee intended to hang him. Several persons and among them a woman, who claimed to be his wife and was allowed to visit him with a child said to be his own, attempted to disabuse his mind of this notion; and for a while they seemed in a measure at least to succeed. But he was so scared that he made a confession of his election frauds, implicating a number of other persons. When told that he would be banished, he begged not to be sent back to Australia and in any event not to be sent away with any of those persons whom he had exposed in his confession, for he believed they would kill him. If he could be sent to the Atlantic states, he would not stop in any of the cities but go into the country and try to reform and settle down to some honest occupation. He seemed to be completely cowed and manifested marked pusillanimity, though this may possibly have been to some extent a result of the sudden stoppage of alcoholic stimulants. On Friday night he was more gloomy than usual and again possessed with the idea that he was to be executed. On Saturday morning, a little after five o'clock, he called the guard and asked for a glass of water. After drinking he said he had had a frightful dream; that he had imagined himself arraigned, tried, convicted and sentenced to be hung; that he had heard the footsteps of the soldiers approaching; that they had taken him to the gallows; that he had felt the rope drawn about his neck and thought he had dropped, when he awoke and called. The guard endeavored to cheer him by repeating that he was not to

¹ Alta California of May 20 and June 1, 1856.

² Statement of Christopher C. Webb.

be executed; and he seemed reassured. But at eight o'clock, when his cell was again opened to give him breakfast, he was dead. His body was found lying upon the bed, which was bloody, with one leg hanging over the side of it. On the left arm at the inside of the elbow, from which the shirt sleeve had been rolled up, was a jagged wound, cut down to the bone and severing the arteries. The instrument, with which the cut had been made, was lying by the side of his right hand. It was a common table knife. He had evidently committed suicide.¹

As soon as the death became known, Coleman called the executive committee together in extra session and laid the facts before them. It was at first believed that the "law and order" party would endeavor to make the most out of the circumstances; but on further reflection it was deemed unnecessary to take any particular steps in reference to the matter or to pay any attention to an absurd rumor, fomented by enemies of the committee, that Sullivan had been murdered. In view, however, of what was supposed to be the effect of the want of accustomed stimulants and to prevent a recurrence of such a result, it was ordered that thereafter in all cases of prisoners that needed it, full rations of spirits should be furnished. And at or about the same time, the attention of the executive committee being called to the subject of stimulants, it was resolved that, except as above mentioned, no intoxicating liquors should be allowed in the building.²

At the same extra session at which the death of Sullivan was announced, Marshal Charles Doane reported that David C. Broderick, Alexander Campbell, Austin E. Smith and several other well-known opponents of the vigilance committee had been seen carefully examining the rear of its building from the windows of the store of Mills & Vantine adjoining on the east. It seemed possible that some kind of an attack was contemplated from that direction; and steps were at once taken to prevent it by obtaining the consent of Mills & Vantine, which was cheerfully given, and putting a strong guard in their store. It may be doubtful what the exact purposes of Broderick and the others were; but

¹ San Francisco newspapers of June 1 and 3, 1856.

² Vigilance Committee Record, May 31 and June 1, 1856; Statement of William T. Coleman.

it is certain that the enemies of the committee were actively at work endeavoring to make trouble and if possible bring about a collision with the state or federal authorities. On the evening of the same day, in pursuance of their plan, the sheriff made his appearance with a writ of habeas corpus for Billy Mulligan. The executive committee immediately ordered the marshal and police to temporarily remove all the prisoners from the building; and, as soon as this was done, the sheriff was notified that he might search the premises, which he did but of course without finding anybody he sought; and he afterwards made a return that he had been prevented from serving it by a body of armed men.¹

On Sunday, June 1, Edward Bulger, who had been arrested on Friday evening, was convicted and sentenced to transportation in the same terms as Billy Mulligan; and on the same day Charles P. Duane was taken into custody and on the following Tuesday convicted of having been for five years a disturber of the peace of the community by repeated assaults often with deadly weapons and by his interference with elections, and sentenced to leave the state with a warning never to return, under penalty of death. On Monday a large addition was made to those ordered to leave the state in the persons of John Crowe, Ira Cole, James Hennessey, John W. Bagley, James Cusick, Terrence Kelley, James Claughley, Jacob Ritchie, William alias Jack McGuire, Michael Brannagan and Robert Cushing, though the sentence in Cole's case was afterwards suspended and that in Cushing's case revoked. On the same day a notice was sent over the suggestive signature of "33 Secretary" to John Cooney that he had better reform his ways as the eye of the committee was upon him—and there can be little doubt that Cooney immediately made some healthy changes in his arrangements. He at any rate did not require or at least did not receive a second notice. A few days afterward, on Thursday, June 5, 1856, after considerable negotiation with shipping-masters, the first transports took place. Martin Gallagher, Billy Carr and Edward Bulger were sent off on the bark Yankee for the Hawaiian Islands and Billy Mulligan, Woolley Kearney and Charles P. Duane on the Pacific mail steamer for Panama.²

¹ Vigilance Committee Record, May 31, 1856.

² Vigilance Committee Record, June 1, 2 and 5 and July 13, 1856.

CHAPTER X.

VIGILANCE COMMITTEE OF 1856 (CONTINUED).

WHILE the vigilance committee was thus busy winnowing out and casting forth such of the bad characters of San Francisco as it could reach, its enemies and particularly the politicians and officials, with whose projects and schemes it interfered, were making constant and almost desperate efforts to throttle and defeat it by bringing about a conflict with the state and federal authorities. The first attempt was with the state. Unfortunately the governor, John Neely Johnson, though not a bad man, was a very weak one and could be pulled and hauled about by men of superior mind almost as they pleased. Like most other men of that character he trained with the side that had last had hold of him; and, as he drifted more or less from side to side, his policy was not by any means always consistent and sometimes it was almost unintelligible. As has already been shown, though he did not pretend to sanction, yet in the beginning he winked at the operations of the committee, apparently recognizing the fact that its leaders were good men and engaged in a laudable kind of unlawful work; and all he wanted was that they should hurry along and get through with it before he should be obliged to interfere. There is no reason to think that he wanted to interfere or that he would have attempted to do so, if he had not felt himself driven to it. As will be recollected he had slapped Coleman on the shoulder and told him to "go it, old boy, but get through as quickly as you can." At the same time he had said that there was a bitter opposition and terrible pressure. This opposition and pressure continued to grow more violent. Though Johnson had witnessed the taking of the county jail and knew all about the hanging of Casey and Cora and the arrest of Billy Mulligan and others of the same class, he had done nothing. But the persistent efforts of the

enemies of the committee at length induced him to make a hostile move.

On June 2, 1856, from his office at Sacramento he issued an order to William T. Sherman, commanding him as major-general to call upon such number of the enrolled militia or those subject to military duty as he might deem necessary, and also upon all the volunteer independent companies of the military division under his command, to report, organize and act with him in the enforcement of the law. On the next day, June 3, he issued his somewhat famous proclamation—famous because so ill-timed and inefficient and afterwards so much ridiculed. In this document, after reciting that he had received satisfactory information that combinations to resist the execution of legal process by force existed in the county of San Francisco and particularly by an organization styling itself the vigilance committee, and that the power of said county had been exhausted and was not sufficient to enable the sheriff to execute such process; "now, therefore," he went on to say, "I, J. Neely Johnson, Governor of the State of California, by virtue of the power vested in me by the constitution and laws thereof, do hereby declare said county of San Francisco in a state of insurrection, and I hereby order and direct all of the volunteer militia companies of the county of San Francisco, also all persons subject to military duty within said county, to report themselves for duty immediately to Major-General William T. Sherman, commanding second division California militia," to serve "in the performance of military duty under the command of said Sherman until disbanded from service by his order." He then, apparently, as if not entirely satisfied with this very liberal call for the second division, further ordered that all volunteer militia companies organized or which might be organized in the third, fourth and fifth military divisions of the state and all persons subject to military duty in said military divisions should hold themselves in readiness to respond to and obey the orders of the governor of the state or said Sherman for the performance of military duty in such manner and at such time and place as might be directed by the governor. And he furthermore ordered and directed all associations, combinations or organizations whatsoever existing

in said county of San Francisco or elsewhere in the state in opposition to or in violation of the laws thereof and more particularly the association known as the vigilance committee of San Francisco to disband and each and every individual thereof yield obedience to the constitution and laws of the state, the writs and processes of the courts and all legal orders of the officers of the state and of the county of San Francisco.

On June 4, Sherman issued general orders from head-quarters of the second division of the California militia at San Francisco, calling upon all the volunteer and independent companies of the city to report for duty and upon all the citizens subject to military service to enroll into companies and hold themselves in readiness in case they should be called upon.¹ But Sherman found himself in the position of Glendower. He could call spirits from the vasty deep; but it did not follow that they would answer him. As a matter of fact they did not and would not answer. With the exception of a beggarly few, not exceeding seventy-five or a hundred men, they not only declined; but most of the volunteer companies, as has been stated, disbanded and joined the vigilance committee. Those that did enlist or report to Sherman were, as he expressed it, of the so-called law and order party "in public estimation synonymous with the rowdies, shoulder-strikers and ballot-box stuffers."² On the same June 4, Governor Johnson wrote to Major-General John E. Wool, commanding the Pacific division of the United States army at Benicia, stating that the existence of the vigilance committee, their resistance of legal process and their threats of continued opposition to the constituted authorities had compelled him to issue his proclamation; that the military force called into the service of the state was wholly destitute of the munitions of war necessary to render it effective; that its entire dependence to obtain them was upon General Wool, and asking that such arms, accoutrements and ammunition might be furnished as General Sherman might require or he as governor might order, the same to be returned or deducted from the quota of arms to which the

¹Judges and Criminals: *Shadows of the Past—History of the Vigilance Committee, &c.*, Anonymous, San Francisco, 1858, 36-40; San Francisco newspapers of June 5, 1856.

²Sherman Correspondence, *Century Magazine* of December, 1891, 304.

state might thereafter be entitled from the United States government. On June 5, Wool answered that upon examination of the laws of congress he had found that no person had authority to grant the request, which had been made of him, except the president of the United States; and that in a recent contest in Kansas, somewhat analogous to that existing in San Francisco, where a similar request had been made for arms and ammunition, the president had refused to grant them. He was therefore constrained to decline granting the requisition. On June 6, Sherman, having been informed of this refusal, wrote to Wool that he was surprised beyond measure to hear that he had expressed a determination not to risk the issuance of arms to the militia of the state after his assent to the governor's request in Sherman's presence to issue such arms as would be required.¹ The next day the governor wrote again to Wool stating specially and particularly that the vigilance committee had resisted the service of a writ of habeas corpus issued by a judge of the supreme court of the state and repeating his previous request for arms and ammunition in still more urgent terms than before. But the most interesting and perhaps the most important part of his letter was the postscript, in which he said that on the preceding May 31, Wool had promised him that on the happening of a certain contingency he would furnish, on his order as governor of the state, such arms as he wanted; that such contingency had occurred; that he had no doubt Wool would not hesitate in the existing emergency to comply with the request preferred, and that in order to make it more specific he would ask to be furnished with three thousand stand of muskets or rifles, fifty rounds of ammunition, two mortars, three hundred shells and two guns of as large caliber as he had, with their ammunition and appliances.²

It is evident that both Sherman and Johnson, though they differed in some respects, were trying to force Wool into the position of having on the previous occasion referred to made a promise to furnish arms. Sherman substantially said so directly; but Johnson on this occasion only said that Wool had promised

¹ Sherman's Correspondence, Century Magazine, December, 1891, 306.

² Ex. Doc. 3 Ses. 34 Con. S., Vol. VIII, No. 43, 3-6.

to do so on the happening of a certain contingency, and he claimed that such contingency had arisen. Wool replied on June 9, repeating what he had said on June 5 and adding that as Johnson had thought proper to allude to a conversation between them on May 31, he would simply remark that he had then stated that he was not authorized under the circumstances to furnish arms and that the authority to do so rested in the president of the United States. He further said that he had had at the time only an imperfect recollection of the law and regulations governing in such cases; and that being strongly pressed by Johnson he had said that a case might arise in which he would deem it proper to assume the responsibility of issuing arms; but that, upon receiving Johnson's request on June 4, he had examined the law and regulations and discovered that he had no discretionary power whatever in the case of an insurrection such as described. As to the quota of arms, to which the state was entitled, however, he said that he would direct the chief of ordnance to deliver such as were on hand on his requisition. Wool had already on June 7 sent word to Lieutenant H. J. Gibson, who was in command of the United States forces at the presidio in San Francisco to remain perfectly neutral in the excited state of affairs, but to protect and defend public property intrusted to his care and not to issue arms or ammunition to any party or parties without his orders. As a matter of fact Gibson had already on May 14, the day King was shot, issued from the presidio, on the requisition of Mayor Van Ness and without the knowledge or authority of the general, one thousand rounds of musket cartridges, forty-eight six-pounder cartridges and twenty-six six-pounder balls—for all which he came near being cashiered—but Wool's present orders prevented any further issue and in effect put a stop to any expectation of procuring anything from him or anybody under his control.¹

In the meanwhile a number of citizens, and among them Joseph B. Crockett, Frederick W. Macondray, Henry S. Foote, Martin R. Roberts, John Sime, James D. Thornton, James Donahue, John J. Williams and Bailey Peyton, had undertaken to bring about an accommodation and settlement between Sherman

¹ Ex. Doc. 3 Ses. 34 Con. S., Vol. VIII, No. 43, 6, 7, 16, 19.

and the governor on the one side and the vigilance committee on the other. On the evening of June 3, the day of the governor's proclamation, Crockett had asked to be heard before the committee on the subject and was allowed to do so on his assurance that he could speak the sentiments of Sherman. But little or nothing came of that conference. On the contrary the committee resolved, on June 6, that it would receive no suggestion or notification from Sherman except in writing and that no member should submit for consideration any conversation held with him in reference to the acts of the committee. This resolution, however, was rescinded on the evening of the same day; and Thomas J. L. Smiley reported an oral conversation, which indicated that there was a chance for a satisfactory accommodation; and, to pave the way for it, the committee passed a resolution not to forcibly resist or refuse admission to any writ of habeas corpus that might be issued to recover possession of any person arrested by it. On the next day, Saturday, June 7, the committee of citizens above mentioned, who were about to proceed to Benicia to meet the governor and prevail on him, if possible, to withdraw his proclamation, were admitted to a conference; and in view of that object the executive committee adopted and handed to the citizens several resolutions to the effect that thereafter there should be no exhibition of any of the armed forces of the committee on the streets or public places of the city and that there should be no forcible resistance or refusal of admission to any writ of habeas corpus. But at the same time the citizens were informed that neither of the resolutions was to be delivered or considered binding unless the proclamation were withdrawn and the law and order forces disbanded.¹

The mode of traveling between San Francisco and Sacramento in 1856 was by steamboat. The up-boat left San Francisco about four o'clock in the afternoon and the down-boat left Sacramento about one o'clock the same day. The two boats were to meet at or near Benicia between six and seven o'clock. As a rule the up-boat reached the Benicia wharf first and left it before the down-boat came in. On Saturday, June 7, 1856, it being known that the governor had directed Sherman to meet him at

¹ Vigilance Committee Record, June 3, 5, 6 and 7.

Benicia that night, the committee of citizens took passage with Sherman on the up-boat. They probably went at his suggestion; at any rate he said a few days afterwards that his purpose was "to use them as intermediaries between the governor and the vigilantes, if for nothing else than to establish the fact that the governor was right and the committee wrong and thereby force the moderate men of the city to take the governor's side." But if such were his object, he most wofully failed. The up-boat reached Benicia about an hour before the Sacramento boat got in; and Sherman and the committee of citizens went to the main hotel, known as the American, expecting that the governor would come there also. At that house they met Wool, who was likewise stopping there, to whom Sherman introduced the citizens and in the course of conversation asked for an answer to his letter of June 6. Wool replied that he had prepared an answer, but as Sherman was present, it was unnecessary to deliver it and he would only say that it was the same in substance as that sent to the governor. Sherman, however, insisted on having the written answer; and Wool finally gave it to him.¹

When the Sacramento boat got in, Sherman hastened down to the wharf to meet the governor and found him there in company with Judge David S. Terry, Volney E. Howard, Edward Jones of Palmer, Cook & Co., Edward D. Baker and a few others, all "known," as Sherman expressed it, "to be of the most ultra kind, men of violent feelings and who were determined to bring about a collision of arms if possible," and the governor seemed to be completely under their influence. Upon Sherman's taking him aside, he wanted to know if it were true, as he had heard, that a committee of "vigilantes" had come up to see him. Sherman answered that a committee had come up from the city, but they were not "vigilantes;" they were citizens of moderation and respectability, who had taken no part one way or the other in the controversy; but who represented the classes out of whom the governor and his friends would have to derive their strength. He then went on to say that the enrollment of law and order forces at San Francisco was proceeding slower than he desired and that, if Wool's refusal to furnish arms and ammunition

¹Sherman Correspondence, Century Magazine, December, 1891, 304.

became public, their cause was hopelessly lost. At the mention of Wool, the governor exhibited a great deal of ill-temper; and, as a further evidence of it, he refused to stop at the same house with Wool but proceeded to the Solano Hotel some two blocks further up the street. Sherman accompanied the governor as far as his hotel and supposed he had disabused his mind of the impression that the citizens were members of the vigilance committee; and, upon the governor's consent to receive them, he went back to the other house and informed them to that effect. The committee of citizens thereupon proceeded in a body to the Solano House and about fifteen minutes afterwards Sherman followed.¹

Upon returning to the Solano Hotel, Sherman found Johnson with Terry, Howard, Jones, Baker and others, in an apartment on the second floor over the bar-room. All were talking violently against Wool and denouncing him as a liar. There was then some talk about the vigilance committee and Terry denounced them all as a set of pork merchants who were getting scared, and that Wool was in collusion with them to bring the state into contempt. Sherman remarked that there were no arms in the state except such as were in Wool's possession or in the hands of the vigilance committee, and it was the part of prudence and wisdom under the circumstances to be patient and cautious. About that time Judge Crockett and his associates of the citizens' committee sent up their cards; but Terry and a few others denounced them as no better than "vigilantes" and wanted the governor to refuse to see them. Sherman replied, as he had previously replied to the governor, that they were not "vigilantes" and specified Judge Thornton as a well-known "law and order man," who had responded to the call of the sheriff of San Francisco and bore arms in defense of the county jail. The governor sent word that they should reduce their business to writing. They returned a written note stating that on their own behalf as citizens of San Francisco and on behalf of a large portion of the people of that city they respectfully asked a personal interview touching the alarming crisis in its affairs. In response to this they were admitted; and, upon the governor's saying that

¹ Sherman Correspondence, Century Magazine, December, 1891, 304.

he was prepared to hear them, Judge Crockett rose and made a clear statement of the condition of things in San Francisco, concluding with an assertion that the vigilance committee was willing to disband and submit to trial, if necessary, in a short time. All this while, according to Sherman, "Terry sat with his hat on, drawn over his eyes, and with his feet on a table." As soon as Crockett was through, the citizens were dismissed and Johnson began to prepare a written answer. This was scratched, altered and amended to suit the notions of his counselors for the time and was then engrossed and sent.¹ It said that the hope expressed by the citizens that the unhappy difficulties in San Francisco might be terminated without bloodshed fully accorded with his own desire and that nothing should be done on his part which would not be imperatively necessary to secure a compliance with his executive proclamation. By virtue of the constitution of the state it was made his duty to enforce the execution of the laws. That duty he should perform; and, if unhappily a collision should occur and injury to life and property result, the responsibility must rest upon those who disregarded the authorities of the state.²

Sherman said a few days afterwards that he found himself strangely placed—under a militia commission to quell a civil strife; the mass of the people against him; arms refused by the only authority that could furnish them, and the governor under other influences. He further said he believed that he would have been able, through the instrumentality of the committee of citizens, to bring the vigilance committee to a stand-still or at least have so placed them in the wrong that the citizens would have turned against them; but that Terry, Howard, Jones and others had made the governor believe that the vigilance committee was "caving in" and that the only proper way was to follow them up rapidly and force them to submit unconditionally. It is not likely that Sherman could have done much if anything, even if the governor had stood by him; but whether so or not, as the governor was now consorting and counseling with "men, against whom of all others in the state there lay the most vio-

¹ Sherman's Memoirs, Vol. I, 129, 130.

² Vigilance Committee Record, June 7, 1856.

lent prejudices and who knew that Sherman did not like them," the latter felt himself forced to resign his office. He accordingly then and there sat down and wrote out his resignation and handed it to the governor, who in a formally complimentary note accepted it and appointed Volney E. Howard of Texas, a special friend of Terry's, major-general of militia in his place. The next day Sherman wrote out a statement addressed to his friends in California, purporting to give the reasons for his resignation and on Monday published it as an advertisement in all the San Francisco newspapers.¹

As a document intended either to justify his previous action or to make his peace with the public for the future, Sherman's address was weak. There seems to have been no necessity or call for anything of the kind. It accomplished nothing and could accomplish nothing except to indicate that he considered himself a much more important factor in the business than he really was. He said that he thought he had said and done enough to convince everybody that he was not an advocate of the vigilance committee; and that while he would have contributed his assistance to expel the rowdies, ballot-box stuffers and shoulder-strikers, it would only be by the application of some legal mode, which he believed did exist. When, however, the vigilance committee was installed and he received orders from the governor to organize the militia to aid the sheriff in the execution of his duty, he had done his best to induce all good citizens to enroll into companies and promised when a sufficient number were enlisted to arm, equip and muster them into the service of the state. He had based his promise upon a verbal assurance given to the governor by General Wool to issue from the United States arsenal on a proper requisition such arms and munitions of war as might be called for. But it was no longer a secret that when the requisition was made General Wool had changed his mind and had discovered he had not the legal power to grant the request. As for himself he had at all times endeavored to calm public excitement; given orders that those enrolled in the service of the state should not exhibit themselves

¹ Sherman Correspondence, Century Magazine, December 1891, 304; Sherman's Memoirs, Vol. I, 130.

in the streets; cautioned the more zealous to refrain from exciting language, and always counseled moderation and forbearance; for, knowing that the vigilance committee would see that their organization must come to an end, he believed that the sooner they would surrender their power the easier it would be of accomplishment. But he had been forced to conclude that these moderate counsels did not coincide with the views of Governor Johnson and, in justice to him, he felt bound to afford him an opportunity to select some representative whose ideas were more consonant with his own. At the same time he must bear testimony to the high and chivalrous sense of duty which had actuated the governor in all their intercourse. In conclusion he trusted that the vigilance committee would disband absolutely, forego quibbles and pride and submit to the law, making such reasonable concessions as were demanded by the governor in his proclamation. Such a step would reflect credit on them, restore peace and quiet and relieve all minds of the fears and apprehensions that could not be concealed.¹

If Sherman really expected the vigilance committee to disband or to pay any attention whatever to his uncalled-for advice to them to disband, he was again entirely mistaken. On the contrary, on Sunday, as soon as they heard of the result of the conference at Benicia, they appointed a committee to procure all the wire-cartridges in the city and accepted an offer on the part of a Mr. Comins, a dealer in arms, tendering the gratuitous use of all the shot-guns in his possession on the committee's guarantee of their safe return in good order. Soon afterwards, on the same Sunday, the board of delegates, of whom fifty-three appeared, met and showed by their action that they had not the remotest idea of disbanding. So far from anything of that kind, they seemed to think mainly of perfecting their organization; and, on account of certain disclosures of their action, which had been called to their attention, they resolved that any person who should disclose their secrets should be subject to such penalty as the board should direct, even unto death; and, to make the pledge as binding as they could, they prepared and took a solemn oath to that effect. The matter of the conference at Benicia

¹San Francisco newspapers of June 9, 1856.

and its result was then presented; and Coleman stated that an address to the public had been prepared by Clancy J. Dempster, which embodied the views of the executive committee in reference to future action; and it was proposed, with the concurrence of the board, to publish it. The address was therefore read by Dempster, accepted and ordered published; and it accordingly appeared in all the city newspapers of Monday, June 9, the same day that Sherman's document saw the light.¹

The address was directed to the people of California. It stated that the committee of vigilance, having been placed in the position they occupied by the voice and countenance of the vast majority of their fellow-citizens as executors of their will, desired to define the necessity which had forced their organization. Great public emergencies demanded prompt and vigorous remedies. The people, long suffering under an organized despotism, which had invaded their liberties, squandered their property, usurped their offices of trust and emolument, endangered their lives, prevented the expression of their will through the ballot-box and corrupted the channels of justice, had at length arisen in virtue of their inherent right and power. All political, religious and sectional differences and issues had given way to the paramount necessity of a thorough and fundamental reform and purification of the social and political body. The voice of the whole people had demanded union and organization as the only means of making the laws effective and regaining the right of free speech, free vote and public safety. For years they had patiently waited and striven in a peaceful manner and in accordance with the forms of law to reform the abuses that had made San Francisco a by-word. Fraud and violence had foiled every effort; and the laws, to which the people had looked for protection, while distorted and rendered effete in practice so as to shield the vile, had been used as a powerful engine to fasten upon the community tyranny and misrule. The ballot-box had been looked upon as a safeguard and sure remedy. But so effectually and so long had its voice been smothered and the votes deposited in it by freemen so entirely outnumbered by tickets thrust in by

¹ Vigilance Committee Record, June 8, 1856; San Francisco newspapers of June 9, 1856.

fraud at midnight, or nullified by false counts of judges and inspectors of election at noon-day, that many doubted whether the majority of the people were not utterly corrupt. Organized gangs of bad men of all political parties had parceled out the offices among themselves or sold them to the highest bidders; had provided themselves with convenient tools to obey their nod as clerks, inspectors and judges of election; had employed bullies and professional fighters to destroy tally lists by force and prevent peaceable citizens from ascertaining in a lawful manner the true number of votes polled at the elections, and had used cunningly contrived ballot-boxes, with false sides and bottoms, so prepared that by means of springs or slides, spurious tickets placed there previous to the elections could be mingled with genuine votes. Of all this there were the most irrefragable proofs. Felons from other lands and states and unconvicted criminals, equally as bad, had thus controlled public funds and property and had often amassed sudden fortunes without having done an honest day's work with head or hands. Thus the fair inheritance of the city had been embezzled and squandered; the streets and wharves were in ruins, and the miserable entailment of an enormous debt would bequeath sorrow and poverty on another generation. The jury-box also had been tampered with and jury trials made to shield the hundreds of murderers, whose red hands had cemented this tyranny and silenced with the bowie-knife and pistol not only the free voice of an indignant press but likewise the shuddering rebuke of the outraged citizen. To the shame of the community the inhabitants of distant lands already knew that corrupt men in office, as well as gamblers, shoulder-strikers and other vile tools of unscrupulous leaders, beat, maimed and shot down with impunity good, peaceable and unoffending citizens—such as those earnest reformers, who at the known hazard of their lives and with singleness of heart had sought in a lawful manner to thwart schemes of public plunder or to awaken investigation.

Embodied in the principles of republican government were the truths that the majority should rule and that when corrupt officials fraudulently seized the reins of authority and designedly prevented the execution of the laws of punishment upon the

notoriously guilty, then the power they had usurped reverted back to the people from whom it was wrested. Realizing these truths and confident that they were carrying out the will of the vast majority of the citizens of the county, the committee of vigilance, under a solemn sense of their responsibility, had calmly and dispassionately weighed the evidence before them and decreed the death of some who by their crimes and villainies had stained the fair land. As to those who were banished, the comparatively moderate punishment was chosen, not because ignominious death was not deserved but that the error, if any, might surely be on the side of mercy to the criminal. There were others, scarcely less guilty, against whom the same punishment had been decreed, but who had been allowed further time to arrange for their final departure; and, with the hope that permission to depart voluntarily might induce repentance, and repentance amendment, they had been suffered to choose, within limits, their own time and method of going. Thus far, and throughout their arduous duties, the committee had been and would be guided by the most conscientious convictions of imperative duty; and they earnestly hoped that, in endeavoring to mete out merciful justice to the guilty, their counsels might be so directed by that Power, before whom all should one day stand, that in the vicissitudes of after life, amid the calm reflections of old age and in clear view of dying conscience, there might be found nothing they would regret or wish to change. They had no friends to reward, no enemies to punish, no private ends to accomplish. Their single, heart-felt aim was the public good and the purging from the community of those abandoned characters whose actions had been evil continually and had finally forced upon the people the efforts it was then making. They had no favoritism as a body, nor should there be evinced in any of their acts either partiality for or prejudice against any race, sect or party.

But, while thus far they had not discovered on the part of their constituents any indication of lack of confidence and had no reason to doubt that the great majority of the inhabitants of the country indorsed their acts and desired them to continue the work of weeding out the irreclaimable characters from the community, they had, with deep regret, seen that some of the state

authorities had felt it their duty to organize a force to resist them. It was not impossible for the committee to realize that not only those who sought place with a view to public plunder, but also those gentlemen who upon accepting offices to which they had been honestly elected had sworn to support the laws of the state of California, found it difficult to reconcile their supposed duties with acquiescence in the acts of the committee. They should reflect, however, that more than three-fourths of the people of the entire state sympathized with and indorsed the efforts of the committee and that, as all law emanated from the people, so also, when the laws thus enacted were not executed, the power returned to the people and was theirs whenever they might choose to exercise it. Those gentlemen would not have hesitated to acknowledge this self-evident truth, had the people chosen to make their movement, instead of such as it was, a complete revolution, recalling all the power they had delegated and re-issuing it to new agents under new forms. But, because the people had not seen fit to resume all the powers they had confided to executive or state officers, it certainly did not follow that they could not, in the exercise of their inherent sovereign power, withdraw from corrupt and unfaithful servants the authority they had used to thwart the ends of justice. Those officers whose mistaken sense of duty had led them to array themselves against the determined action of the people, whose servants they had become, might be respected while their errors might be regretted. But no one could envy the future reflections of that man, who, whether in the heat of malignant passion or with the vain hope of preserving by violence a position obtained through fraud and bribery, sought, under the color of law, to enlist the outcasts of society as a hireling soldiery in the service of the state or urged criminals, by hopes of plunder, to continue at the cost of civil war the reign of ballot-box stuffers and tamperers with the jury-box.

The committee of vigilance—so in substance continued the address—believed that the people had intrusted to them the power of gathering evidence and, after due trial, expelling from the community those ruffians and assassins, who had so long outraged the peace and good order of society, violated the

ballot-box, overridden law and thwarted justice. Beyond the duties incident to these purposes, the committee did not desire to interfere with the details of government. They had spared and would spare no effort to avoid bloodshed or civil war; but undeterred by threats of opposing organization they should continue, peaceably if they could but forcibly if they must, the work of reform, to which they had pledged their lives, their fortunes and their sacred honor. Their labors had been arduous, their deliberations had been cautious, their determinations firm, their counsels prudent, their motives pure; and, while regretting the imperious necessity which had called them into action, they were also anxious that this necessity should no longer exist. And when their labors should have been accomplished; when the community should be freed from the evils it had so long endured; when they had insured to the citizens an honest and vigorous protection of their rights—then the committee of vigilance would find great pleasure in resigning their power into the hands of the people from whom it had been received.

In addition to the publication of the foregoing address, which showed that the vigilance committee had at that time made up its determination not to disband until it had finished its work—and which probably would never have been called out had it not been for the ill-advised position assumed by Governor Johnson at Benicia—the committee also took almost immediate occasion to rescind the conciliatory resolutions that had been adopted and placed in the hands of the citizens as before stated. This action was taken, not because peace was not desirable, but because their efforts and overtures, instead of being received and responded to in a becoming spirit by the governor and his counselors, had been misconstrued and misrepresented by them as evidences of weakness and timidity. At the same time action was taken to strengthen the committee organization and put it in better condition to fight and carry out its purposes, as far as it could, in spite of any movement that could be made against it. The grand marshal had already been instructed to report what steps were necessary to secure the arms known to be in the possession of the law and order party or, as the resolution read, "of the enemies of the people of San Francisco." In view

also of the boasts and brags of the party under the lead of Volney E. Howard, their new major-general, who was expected to drive the "sour flour and salt pork merchants," as they were termed, into the bay at short notice, it was deemed proper to take into consideration the untenable condition of the committee's head-quarters in case of an attack of any force. George H. Hossefross, foreman of Monumental Engine Company No. 6, whose house fronted the upper or west side of Portsmouth Square, had tendered the use of the fire bell of his company as an alarm to call the vigilance forces into the field at any moment; and his offer was accepted; but the main matter was to render the forces more effective and irresistible when called out. For this purpose, on the Monday after the Benicia conference, a completely new military organization was adopted, in accordance with which it was determined that there should be formed three regiments of infantry, composed each of two battalions of four companies each, one battalion of artillery, one battalion of cavalry, and one French legion. Each regiment was to have one colonel, one lieutenant-colonel and two majors; each battalion of artillery and cavalry one major, and the French legion one colonel and one lieutenant-colonel. All were to be under the command of the grand marshal; the colonels and lieutenant-colonels to be nominated by the marshal but subject to confirmation by the executive committee, and the majors to be elected by the respective battalions. And it was further resolved that as soon as the new organization could be completed the grand marshal was to order all of them to keep themselves in readiness to obey orders at any time and that one regiment should be detailed in rotation each twenty-four hours for active duty.¹

As for the head-quarters on Sacramento street, the fact was recognized by military men that they were virtually indefensible and untenable in case of an attack. For a time some talk of removing and forming a bivouac took place; but it only ended in efforts to strengthen the building as it was. Among other things a committee was appointed to make a thorough examination of the sewers in the surrounding streets and take measures

¹ *Vigilance Committee Record, June 9, 1856; Sherman's Memoirs, Vol. I, 130.*

against any danger to be apprehended coming in that direction. Next a question as to portable barricades, in reference to which some of the French members were supposed to have special knowledge, was discussed; but it was thought advisable, if anything of that kind were needed, to first have a few constructed for trial. Several communications from persons of military reputation in Europe, among whom was Count Samuel C. Wass, tendering their services if required, were received and accepted. At the same time, the insecurity of the vigilance building being recognized and it being known that one of the plans of the law and order party had been, in case they procured arms, to plant a battery on one of the surrounding heights, such as Rincon Hill, and shell the place, it was resolved that, in case any cannon were put in position by that party, the marshal should at once take them and the men in charge of them. And in view of the well-known fact, frequently remarked by different persons, that the head of California street near Mason was one of the most important military points in the city, it was further resolved that an extra patrol should be maintained at that place. Very minute arrangements were likewise made for the assembling of the vigilance forces in case of an attack; one of the points of meeting being in front of the Oriental Hotel and another in front of Monumental Engine House; and it was recommended, as a distinguishing mark for mutual recognition, that each member should wear a piece of white ribbon in the top buttonhole of the left lappel of his coat and that the rallying cry in case of difficulty should be the word "Vigilantes." But the most remarkable thing that was done—though there may be much question as to its real efficacy—was the fortification of the vigilance building by a sort of breastwork, which was thrown up on the night of June 10 and, besides attracting the attention of thousands of spectators, gave to the place the distinctive and more or less famous name of "Fort Gunnybags."¹

The plan of fortification referred to consisted of a wall, constructed of coarse sacks, usually known as gunnybags, filled with sand and piled up in such a manner as to form a breast-work nearly six feet thick and nearly ten feet high. This wall,

¹ Vigilance Committee Record, June 9 and 10, 1856.

extending out from the front corners of the building across the sidewalk and into the street and then running along in the street in front of the building, made a sort of inclosure. What might be called embrasures were left at several points and particularly at the corners, at each of which a cannon was placed; and all along the line there was an inside platform and openings from which a scathing fire of musketry could be poured. It seems to have been understood at the time of the construction of these works or just previous thereto that the law and order party had tried to obtain or had obtained positions in the immediate neighborhood, from which the vigilance building could be raked; and it was to counteract and foil its plans that these works, including the planting of a few small cannon on the roof of the building, were constructed. As has been said before, it is doubtful whether the works would have been of any account in case of a fight, and particularly if the law and order party had planted an effective battery on Rincon Hill or any other of the surrounding heights; but whether so or not they appear to have at least inspired confidence in the vigilance committee forces; and in that respect, if in no other, some praise was due from them to Francis J. Lippitt, afterwards colonel of their fourth regiment, to whom they were indebted not only for the idea but also for the building of such a fortification.¹

Fort Gunnybags being thus put in order for an attack, in case one should be made, and it being seen by this time that the effect and influence of the vigilance committee was not to be confined entirely to San Francisco, it was deemed proper to recognize and respond to various offers of sympathy and assistance from the interior of the state. About the beginning of its organization on May 19, 1856, the committee had declined to receive a deputation of citizens from Contra Costa county on the apparent ground that its objects were only local and it did not wish to complicate its affairs with outside matters. But it did not take long to learn that the good-will and moral support of the interior towns were a matter of very great importance and might be a matter of necessity in case of a conflict; and accordingly on June 9 a change of policy in this respect had been inaugurated by the

¹San Francisco newspapers of June 11, 1856.

reception of various delegations from different parts of Alameda county, such as Oakland, Alameda and Centerville. On June 11, several delegates from San Lorenzo made their appearance with a series of resolutions signed by over two hundred of their fellow-citizens, indorsing the past acts of the committee and encouraging them to go on in the good work; and in reply the committee tendered thanks and provisionally accepted their co-operation and aid whenever occasion might require. On motion of Martin J. Burke, and evidently with an eye to the moral effect upon the outside community, the resolutions of the San Lorenzo people were ordered published; and on motion of Coleman, and clearly with the same general object in view, the constitution of the committee was also ordered published at the same time.¹

Everything at this time indicated a getting of the committee into condition for the conflict that was anticipated, or at least such a preparation for a conflict as would prevent one from being forced upon it. Dr. Isaac Rowell tendered it the use of three houses for hospital purposes, his own personal services as physician and surgeon, and all the means at his command; Thomas J. L. Smiley offered his store as a rallying point for the executive committee in case of its being cut off from head-quarters; various other persons gave store and loft room for the keeping of arms; and on every side gratuitous advances were made, indicating the favorable hold the committee and its objects had taken in men's minds on every side. On the same Wednesday, June 11, the executive committee adopted a series of rules of order for its own government, which had been reported by Smiley and Dempster and were intended and calculated to insure prompt attendance and no shirking. According to these, every member absent from roll-call was required to pay a fine of fifty cents; if absent for over an hour he was to pay a dollar, and if absent entirely from a regular meeting, a dollar and a half. On a question of order all debate was to cease; every member called to order was to take his seat until the point was decided; and any member refusing or declining to obey the request of the chair on a call to order was to be fined five dollars, and the fine was not to be remitted unless by unanimous vote of the body. The secre-

¹ Vigilance Committee Record, May 19, June 9, 10 and 11, 1856.

tary was to keep a book, in which an account with each member was to be opened; and every evening, immediately after reading the minutes, he was to read the names of delinquent members and amounts due from them. No member, except on unanimous consent, was to speak more than twice upon the same question and not to exceed five minutes each time. The presiding officer was not to debate any question except a point of order or an appeal from the decision of the chair. The previous question, closing further debate, was not to be put unless demanded by at least one-third of the members present; and there was to be no suspension of the rules except by a two-thirds vote.¹

While the committee was thus preparing itself for whatever might be in store for it, the citizens, who had been treated so shabbily by the governor at Benicia, did not remain idle. On the contrary, for the purpose partly of justifying their own action as representatives and partly of convincing the governor and his counselors of the real feelings of the community in reference to the vigilance committee, they called a mass meeting of the people to take place at noon on Saturday, June 14, in the open space in front of the Oriental Hotel. No sooner had this meeting been announced than large arrangements began to be made for it. The greatest interest was manifested on all sides. The day was made a sort of holiday. Almost everybody turned out into the streets and little or no business was done. Long before the hour named, the appointed spot was thronged and all the windows and house-tops in the vicinity crowded. It was estimated that there were at least fifteen thousand people present; and among them, and particularly in the parlors and windows of the Oriental Hotel, were many ladies. At twelve o'clock promptly the meeting was organized by calling Bailie Peyton to the chair and appointing a long list of vice-presidents and secretaries from among the most prominent and influential citizens of San Francisco. The first speaker was Mr. Peyton. He set forth very clearly the object of the meeting to be an indorsement of the action of the vigilance committee and an earnest request upon the part of the community for the governor to withdraw his proclamation. He said that the committee must be sustained or it must be put down, and

¹ Vigilance Committee Record, June 11, 1856.

that, if it were put down, it would have to be at the point of the bayonet. If an attempt of that kind were made, it would be a bloody one; and all must wish and desire to prevent so dire a calamity. It had been claimed by the little band opposing the vigilance committee that there was no necessity for the organization or for a revolution of the government. He was frank to say that he took issue with them; and he declared that there was no other remedy to redress the wrongs from which the city of San Francisco had been suffering for years. The very fountains of government had become corrupt by the frauds and impositions practiced upon the ballot-box. The laws were not only not executed but they were even made by men who had fraudulently foisted themselves into office. Every citizen had a right to go to the polls and there by his vote express his free will. But what chance had a man in San Francisco to do so? Honest men might go and vote, if they could get to the polls; but a "Mulligan" could neutralize all their votes by a single touch of the machinery that had been used as ballot-boxes.

With a set of scheming candidates and their partners to watch over and manipulate the ballot-boxes, and a set of bullies and ruffians to knock down honest voters when too many made their appearance at the polls, what chance was there to get anything like fairness? As matters had been carried on, people were afraid to go to the polls, for their lives were in danger. Such had been the condition of affairs for several years. Look at what had taken place. Who had controlled the elections? Who had filled the offices? And what was the result of their rule and government? The city's taxes had been squandered; its credit ruined; its business destroyed; its streets dilapidated, and its homes almost invaded by surrounding crime and corruption. These things had gone on by the forbearance of the people until one of the worst of the crew, a prince of ballot-box stuffers, had struck down openly, at noon-day as it were, in the very midst of the community, one of the most honored and distinguished citizens, who had attempted to stay the fearfully rapid growth of evil. Every honest man could read what might have been his own fate in that of James King of William. If he could be shot down with impunity, who was safe? It was for this reason that

the people, as represented by the vigilance committee, had arisen in their combined strength and demanded justice; and they were going to have it. They had done well; they had done right; they deserved the support of all right-thinking men and would deserve a monument to their memories; they had accomplished more in a few days towards correcting evils, reforming abuses, punishing crime and improving the social and political condition, than the courts and officers of the law had done in as many years. They had a Herculean task; but they would accomplish it. Hercules in his cradle had strangled two serpents: the vigilance committee in its infancy had strangled two monster felons who richly deserved their fate. Hercules had caught unclean birds with beaks and claws of iron and brass: the vigilance committee had caught birds of the same description—and they were after the chief of them, the notorious Ned McGowan, at that very time. Hercules had cleaned the Augean stables: the vigilance committee had undertaken a similar task, had already turned the river of honest sentiment into it, and were sweeping it clean—very clean.

Peyton proceeded at considerable length to enlarge on his text, saying that he knew that the people were going to support the vigilance committee and he desired to see them do so in great numbers, in fact unanimously. He wanted the governor to know that if he fought the committee, he would have to walk over more bodies than could be disposed of in the cemeteries. He knew the governor was an amiable and kind-hearted man and disposed to do right, but unfortunately he had been listening to bad advice. If he had been left to himself, he would never have issued his proclamation; and were he now to consult his own feelings he would withdraw it. It was a pity the governor was not present to see what a demonstration the people were then making for the committee. Such a sight was one of the things a blind man could see and understand. But it was unnecessary, the speaker went on to say, to talk further on the subject, for he saw that the people were unanimous in their approval of the committee. "Let us indorse all that they have done and support them in the work before them. Let us be ready to fight for them, if necessary!" This speech was received

with many cheers and much applause. Frederick S. Woodworth, one of the vice-presidents, then read a series of resolutions, expressing the entire confidence of the citizens of San Francisco in the constitution and laws of the United States and in the constitution and laws of the state of California and in their efficacy for the maintenance of public tranquillity and general prosperity, solemnly deprecating all agitation on the subject of change or constitutional reform at that time; expressing confidence in the people and the people's organization, known as the committee of vigilance, and its ability and determination to maintain the common safety; declaring the governor misinformed as to the necessity which had forced the citizens into their extra-judicial organization; requesting him to withdraw his proclamation, and winding up with a statement that, while there was perhaps no longer reason for alarm—as any governmental interference or action which would tend to produce a collision was not only unnecessary but would be absolute madness—yet, if disappointed in their hopes of peaceable and early termination of existing difficulties, the people stood ready to organize and maintain the right.

But the most important of the resolutions—though it came in as a sort of afterthought or at least as an independent resolution after the others had been adopted—was a proposition that the president and officers of the meeting should constitute a standing committee, whose duty it should be, if necessary in the future, to devise and arrange a plan of organization of the entire people in support of the vigilance committee, and that in the meanwhile the citizens should be forthwith called upon for contributions to a “safety fund,” which should be held by such standing committee subject to the orders of the vigilance committee and upon the understanding that, if there should be any surplus of such fund at the disbanding of the vigilance committee, it should be divided equally between the orphan asylums of San Francisco. This too was adopted with great applause. William Duer was then introduced and made what might be termed a “rattling” speech, interspersed with humorous allusions and well calculated not only to amuse the audience but to strengthen the purposes of the meeting. He was followed by

George W. Baker. At the conclusion of Baker's speech, Peyton, the president, again stepped forward to the front of the platform and held up in sight of the immense crowd the famous "double improved back action ballot-box," which had recently been seized by the vigilance committee. Its appearance was received with loud and prolonged cries. At length, when quiet was again restored, Peyton, in his happiest vein, though continually interrupted with cheers and applause, exclaimed: "Here is the orator of the occasion. I beg to introduce to you a harp of a thousand strings. I am sorry I can not present to you the harpist—Ned McGowan. This is the old wooden horse. It has many curious and ingenious contrivances and works by various springs and catches. There are some gentlemen in this city who understand how to work it: I don't. They know its secret operations and slides. I want you all to understand it. It is a powerful machine. It will elevate the meanest vagabond in the country to the highest office in the state. It ought to be sent to Washington and deposited in the archives of the Union."

Nothing, perhaps, could have been more effective than the exhibition at such an opportune time and in such an unexpected manner of one of the fraudulent ballot-boxes, by which the will of the people had been so often thwarted and such men as Casey and his associates lifted into offices of profit and trust. It was something like the blank editorial column in the Bulletin newspaper the day after King was shot. It spoke louder and better than any words. As much on account of this exhibition as of anything that was said, the meeting proved an unparalleled success and produced an impression as to the purposes of the vigilance committee and the position which it occupied in the estimation of the community that could not be mistaken. Whatever doubts might have been entertained before, as to whether the committee had sufficient stamina to carry out its original intentions and whether it would continue to assert itself against the governor and his counselors and their so-called law and order forces, there could be no question on the subject from this time forward. It was in fact evident, from what was shown at this meeting, that it was not merely the members of the vigilance committee as such or the association itself as such that was

interested in its work and determined, if possible, to see it completed; but that it was the vast majority of the citizens and in substance the whole people of San Francisco, and that they were supported and encouraged by the good-will and indorsement of almost all the better class people of the state.¹

¹ San Francisco newspapers of June 15 and 16, 1856.

CHAPTER XI.

VIGILANCE COMMITTEE OF 1856 (CONTINUED).

ONE of the most significant of the resolutions adopted by the mass meeting of June 14 was the expression of entire confidence in the constitution and laws of the United States and of the state of California and deprecating all agitation at that time of constitutional change or reform. This was not a mere formal or unmeaning exposition. On the contrary it was intended for a very distinct and important purpose—no less in fact than an anti-secession declaration and a renewed expression, on the part of the people of San Francisco, of loyalty to the Union and the governmental relations by which that Union, so far as California was concerned, was maintained. The reason of it was an idea, suggested principally by Governor Johnson's wrong-headed and obstinate position in reference to the vigilance committee, of getting up a new constitution and legislating him out of office. Nor did the idea in some minds stop even there but went so far—and particularly in case the federal authorities at Washington should manifest any disposition to support Johnson and his counselors—as to contemplate withdrawing from the United States and going in for an independent Pacific republic. Such a republic had been talked about by politicians in 1848 and 1849. But absurd as the idea then was, it was much more so in 1856. Possibly no one really meant an independent republic, but the name was popular among certain classes and could be used by politicians to capture their influence, such as it was, and their votes.

There was, however, some real meaning in the talk about a new constitution or radical changes in the old one. The first proposition in this direction made to the vigilance committee was a communication, addressed to it on June 1, 1856, by Samuel

P. Webb, ex-mayor of San Francisco, asking its influence in inducing the governor to call an extra session of the legislature. This was before the governor's proclamation; and the purpose seems to have been a move, not against the governor but rather against the judges. But the committee promptly answered that it was entirely inexpedient for it as a body to take any action in the matter and calling Webb's attention to its constitutional provision interdicting the consideration of any political measure whatsoever. The next movement in this direction was a communication on June 11 from Thomas S. King, editor of the Bulletin, in reference to advocating a call for a convention to revise the state constitution. The committee responded that the subject was one which not only its constitution but the course of action proposed prevented it from taking any cognizance of or being in any manner either directly or indirectly interested in. The project on this occasion seems to have consisted of, or to have been contained in, a paper addressed to the people of California and written by Henry S. Foote. According to a report of Miers F. Truett and Richard M. Jessup, who had been appointed a committee on the matter, it appeared that King had informed them that he would not publish the address in the Bulletin unless the executive committee would approve of it. They further reported that they had informed King that the vigilance committee could not in their organized capacity either approve or disapprove the address; but that in their individual capacity they had expressed their personal disapproval of the statements made in the paper. And on motion of Dempster the report of Truett and Jessup was accepted and their action approved. Foote's address, which seems to have been referred to the vigilance committee, was thereupon placed on file; and there it appears to have remained. The mass meeting, by its resolution above referred to, put a quietus upon the subject and took away any hope of resurrection of the matter.¹

Meanwhile the committee, continuing its labors, kept on with its regular work upon the black list. On June 6 the names of William Hamilton and John Lawler were added to it; and on June 9 there were added, from the doubtful list as it was called,

¹ Vigilance Committee Record, June 2 and 11, 1856.

the names of James W. Stillman, Thomas Maguire, Jimmy Gannon, James White, John S. Musgrove, Smyth Clark, James Burke alias Activity, James Thompson alias Liverpool Jack, Chris. Lilly, Jacob Perry, George F. James, John Kelly alias Barbier, Alex. Young, William McLean and Philander Brace. On the same day, on motion of the qualification committee, permission was given for the arrest of Charles Waldeer alias Dutch Charley, a member of the vigilance committee, whose record on investigation did not prove good. On June 10, the committee on evidence was requested to prepare as early as possible the proofs necessary to go into the immediate trial of the persons named on the black list; but at the same time it was ordered that any one, who had been sentenced to leave the state, should be allowed to appear before the committee, if he desired, and give testimony; and that the same was to be taken down in writing, signed by the witness and submitted for consideration. On the next day it was resolved that action upon the black list should be the regular order of business at each meeting, to be taken up immediately after the reading and reference of communications and reports, and that no other business should be permitted to interfere, except upon resolution to that effect duly adopted. It was also resolved that the board of delegates should be summoned to meet that evening to hear read the names of those who had been placed upon the black list, and that they should be requested to interest themselves in obtaining and furnishing the names and procuring the presence of witnesses who could testify as to the commission of crimes against the peace of society or the purity of the ballot-box by any of the persons accused; and such action was accordingly taken. On June 11 the wife of Bill Lewis, who had been ordered arrested on May 25, sent in a communication to the effect that if the committee would allow him to return to the city, he would leave the state on or before June 20; and the request was granted. John Crowe, who had been ordered to leave the state but seemed to think he had influence enough to procure better terms, was informed in substance that nothing but a change in the evidence would procure a change in the sentence of the committee. On June 12 John Lawler, who had appeared before the committee

on evidence and asked for a remission of his sentence of banishment, was informed that it was impossible; and on June 13 the same reply was made to intercessions in favor of William alias Jack McGuire and substantially the same in the case of Terrence Kelly. On the other hand it was ordered that the secretary should notify all persons who were to leave the state that they should report their mode of exit on or before June 18, it being understood that otherwise the committee would fix the time and manner for them; and on the same evening the black list was enlarged with the names of Chris. Dowdigan, Jack Barmore, Robert McMahon, Jack Story, William Cunningham, Michael T. O'Connor, Thomas Mulloy, Sophia McInnes, his woman, Jack Lamb and John Nugent of the city police.¹

On Sunday, the day after the great mass meeting, the committee on evidence reported that they had given John W. Bagley two different hearings but could not recommend any change in the sentence of banishment, which had been passed against him on June 6. It was next ordered that if Paul Miles should be seen again inside the committee rooms he should be arrested and placed in one of the cells. And with the object of hastening and finishing up the work as soon as possible, it was resolved that the entire executive committee, then consisting of between forty and fifty members, should from that time forward be considered a committee of investigation and that each individual member should take the name of some one individual on the black list and make it his special duty to hunt up witnesses and bring them before the committee on evidence, so that the testimony might be arranged and presented for the trial of the accused. On the same day several letters were received from passengers of the Pacific mail steamship Golden Gate to the effect that on the recent voyage from Panama E. Seymour Farnsworth, the second mate of that vessel, had placed a seaman in irons in such a position that he died in fifteen minutes after being released and asking for Farnsworth's arrest and punishment. But the committee declined to take cognizance of the case and sent it to John A. Monroe, United States commissioner, with a letter that the committee of vigilance could not interfere in the premises. As an

¹ Vigilance Committee Record, June 6 and 9-13, 1856.

offset to this tragical story and as if to give the proceedings of the day a sprinkle of farce, it transpired that a bitter and, it might almost be said, a deadly quarrel had occurred in the medical staff; and a committee had to be appointed to inquire into and report upon it. This committee, which consisted of Martin J. Burke and William Arrington, after having had an apparently rough time with the touchy elements with which they had to deal, reported that harmony, so essential to the efficacy of the medical staff, could only be secured by allowing it to elect its own chairman and that no rank or precedence should under any consideration be allowed to one member of the staff over another. And the committee, after stating that Dr. Samuel M. Tibbits had been treated unprofessionally, specially recommended him to the medical staff and expressed a hope that for the future, peace and quiet among the conflicting parties might be preserved; but, for fear the contrary might be the case, they provided that the power should be distinctly reserved to alter the arrangement at any time the executive committee might deem it necessary.¹

Several other matters of interest, outside of the black list, came up for consideration about this time, which tended powerfully to throw light upon the purposes and methods of the committee of vigilance and illustrate its character. On June 11, on motion of Smiley a committee was appointed to report on the proper method of arresting the passage through the common council of the so-called "bulkhead ordinance"—a project which was supposed to jeopardize the city's right to its water front; but at the next meeting the committee reported that it did not seem likely to succeed and at any rate did not require immediate attention. Another matter was the kind of tactics to be employed in case of an attack on the vigilance head-quarters by the law and order forces; and it was resolved as a part of the plan of defense that ten men from each company, who had their arms deposited at their places of residence, should fall upon the enemy's rear; and, for the time that they were holding themselves in readiness for this kind of service, these men were exempted from other general duty. Still another matter was the reorganization of the police force, which appeared to consist of a captain or director of police

¹ Vigilance Committee Record, June 15 and 18, 1856.

and twelve officers. It was resolved, on the recommendation of the committee on police, and principally on the score of economy, that the force should be reduced to six persons—two officers and four deputies. The commissary department next reported that the standing expenses of the committee at that time were at the rate of four thousand dollars per month, including thirteen hundred for police, nine hundred for provisions, six hundred for rooms, five hundred and sixty for military and armories; but that the amount ought to be and could be reduced nearly six hundred dollars per month. In view of the necessity of funds as indicated by this report and of the resolution adopted by the citizens' mass meeting that collections should be made for the support of the committee, it was provided that a conference should take place to make the necessary arrangements. Such conference was there-upon held; and, according to the report of the committee of the vigilants, they notified the citizens' committee that all the assistance they needed was cash and that, when asked what amount was required, they answered twenty thousand dollars as necessary to carry out their purposes.¹

Another important matter, which was brought up on motion of Coleman, was the appointment of a committee to at once inquire and report as to those county officers who ought to be invited to resign their offices; as to who would have the power to fill such vacancies as might occur until the next election; as to whether appointments could be secured satisfactory to the vigilance committee and to the community; also to suggest when and how the proposed invitations to resign should be given and also to ascertain whether the justices of the peace, as provided in the recently enacted consolidation act, could legally sit as a board of supervisors for the consolidated city and county of San Francisco. On the same day, on motion of Jules David, another committee was appointed to wait upon the merchants in the city and urge action in procuring signatures to a petition for the removal of James Y. McDuffie, United States marshal for California, whose record and character were considered bad. It does not appear that either of these committees accomplished much, for the reason doubtless that resignations could not be com-

¹ Vigilance Committee Record, June 11-13, 16 and 17, 1856.

elled; but they manifested the feelings of the committee; and afterwards, as will be seen further on, the citizens of San Francisco took the subject up and made a very decided showing in the same direction.¹

On Monday, June 16, a remarkable conference took place in the committee rooms. A delegation of citizens from Sacramento made their appearance and asked to be admitted to an interview. The great mass of the people of Sacramento, like the inhabitants of the state in general, were in decided sympathy with the work of the committee and in almost every way manifested a disposition to support and encourage it. But when Howard was appointed major-general of the law and order forces in place of Sherman and there was a great deal of braggadocio current as to sweeping the "vigilantes" into the bay or making the streets of San Francisco run red with "rebel gore," the citizens of Sacramento, imitating the citizens of San Francisco, thought proper to call a mass meeting and endeavor to interpose and prevent bloodshed. That meeting appointed, as a committee to take the necessary steps, the delegation of citizens referred to. At their head was John B. Harmon, who as well as his associates seems to have been apprehensive that the vigilance organization, if it continued in existence much longer, might become a permanent political body with arms in its hands and refuse to relinquish its powers. But, as a preliminary to asking the committee to disband, it first called upon Governor Johnson at Sacramento and requested him to withdraw his proclamation. When this suggestion was made, Johnson, with unusual and unexpected dignity and force, drew himself up and retorted: "Gentlemen, which do you think the more proper—for you to come here and ask me, the governor of the state, to yield to a set of men who openly defy the constitution and laws which I am sworn to defend, or for you to go to San Francisco and ask those men to give up their illegal and dangerous association?"

These few words of Johnson indicated that he was not very bloody-minded; but at the same time they showed plainly that there was little or no use in pressing upon him the request to withdraw his proclamation. And the committee then resolved

¹ Vigilance Committee Record, June 15, 1856.

to visit San Francisco and see for itself the condition of affairs there. As stated before, they asked for an interview on Monday, June 16. The request was at once accorded; and the only arrangements for the conference was that only Harmon should speak for the Sacramento citizens and only Coleman for the vigilance committee. Upon being introduced, accordingly, Harmon in a brief address expressed the interest and sympathy of the people of Sacramento in the work of the committee; but he added that it had already lasted a considerable time; that apprehensions were felt in many quarters lest it might last too long, and that a great deal of trouble might perhaps be avoided by an early adjournment. It was now Coleman's turn to draw himself up with dignity; and he replied: "Gentlemen, when this committee was formed, we had a certain necessary work to perform; and we pledged to one another our lives, fortunes and sacred honor to carry it out. When that work is done, we will disband—and not before. It is not yet completed; and we will not yet disband. But you may rely upon me and every man in the committee that as soon as the work is finished and the order given to disband, every member will willingly and promptly obey." The manner and tone in which Coleman spoke and the evident fact that he voiced the sentiments of his associates convinced the Sacramentans that there was no danger to be apprehended; and they returned home perfectly satisfied that the vigilance committee was a much grander institution than they had supposed and that the peace and dignity of the state were as safe in its hands as in those of its own chosen officers.¹

On the evening of June 16 work on the black list was resumed and it was perhaps somewhat accelerated by the impression produced during the day by the delegation from Sacramento. The special cases taken up that evening were those of one T. Cunningham and James White. The latter was found guilty of ballot-box stuffing and general bad character and sentenced to banishment. In the case of Cunningham there was more formality. In addition to other offenses, he was pronounced guilty of counterfeiting what were known as gold slugs or fifty-

¹ Vigilance Committee Record, June 16, 1856; Statement of John B. Harmon.

dollar pieces; and the evidence seemed so conclusive that it was referred to the district attorney to ascertain whether he could not be regularly convicted by the courts and sent to the state prison; but the district attorney replied that he could not be convicted under the statute unless one of the counterfeit slugs could be produced. As this was impracticable, the committee a few days afterwards sentenced him to banishment from the state never to return under penalty of death. About the same time the name of Dr. John T. Hyde was placed upon the black list; and Thomas Maguire was convicted of being a bad citizen and disturber of the peace and also sentenced to leave the state. On Wednesday, June 18, the board of delegates, besides sentencing Cunningham, confirmed the sentences of Thomas Maguire and James White. On the same evening the names of Charles Gallagher, Daniel Matthews, William Steller and George Lane were placed upon the black list and those of John Duane and Bernard Mulligan among the candidates for it. By this time the roll of those sentenced was so large that it was resolved that no more notices to leave should be issued or at least that no more arrests should be made, until after means of transportation out of the country should have been provided. And on the same June 18, in view of what seemed to be the speedy end of the business for which the committee had come together, Coleman, Truett, Smiley, Jessup and David were appointed to examine into the condition of its affairs and report the time at which it would be most advisable to adjourn.¹

The next two days were spent principally in arranging for the deportation of the prisoners and others, who were under sentence of banishment; and on Friday, June 20, John Crowe was sent away on the Pacific mail steamer Sonora and Terrence Kelly, John Lawler, Bill Lewis, accompanied by his wife, and William Hamilton on the Nicaraguan steamer Sierra Nevada. The police also reported the departure, on one or other of the steamers, of Jimmy Gannon and four persons known respectively as the Caney Boy, Denny of Oakland, J. Morrison and Metger. James Cusick and James Hennessey, who were to have gone, fled and concealed themselves in the interior of the state. On

¹Vigilance Committee Record, June 16-18, 1856.

the same day Smiley of the committee on adjournment presented a report, embodying the views of the committee and asking that it might be submitted for approval and final action to the board of delegates. This report recommended and provided that no new business should be taken up or considered after June 24, except in a very extreme case; that the utmost diligence should be used to close up all the affairs of the committee and have all verdicts, notices to leave and sentences executed before July 3; that on July 4 there should be a full parade of all the troops and all the members of the committee, to take place under the direction of the grand marshal in conjunction with the president of the association and military bureau; that the executive committee should give notice on July 4 that the general committee would adjourn on July 5, but that the executive committee and board of delegates would continue to meet and the general committee hold itself in readiness at all times to respond to a regular alarm or the call of the executive, and that, upon adjourning as aforesaid, notice should be given that the return of any party who had been banished should be considered sufficient cause to call the general committee together again for decisive action.¹

But however much the executive committee was willing and in fact wished to speedily adjourn, such consummation was not to be; and the reason was not any desire on the part of the organization to prolong its power, as had been feared; but rather the action of the law and order party in still endeavoring to bring about a conflict. The governor or rather his counselors, after the resignation of Sherman, still persisted in attempts to get up an opposing force and put the committee down. Though they failed in finding any considerable number of persons to enlist or take service on their side, they did have some partisans to bear arms for them, including a few of the military companies of San Francisco and particularly the San Francisco Blues, the Marion Rifles, the Sarsfield Guards, the Continentals and the National Lancers. Whether many more would have come forward may be doubtful; but, however this may have been, the governor and his party strained to get all the arms they could secure. It will be recollectcd that in the correspondence

¹ Vigilance Committee Record, June 18-20, 1856.

between Wool and Johnson in reference to arms from the United States arsenal at Benicia, it was understood that the state would be entitled to a certain quantity as its quota, and that Wool, while refusing to loan or issue arms generally, distinctly said that he was ready to deliver such arms as the state was entitled to. For these arms, which proved to consist of six cases of muskets, a requisition in due form was made out in the name of the governor and transmitted to Benicia by the hands of James Reuben Maloney and John G. Phillips on June 19. The arms were immediately delivered to them and put aboard the schooner Julia for the purpose of being carried to San Francisco and delivered to the law and order party at that place.¹

In a very short time afterwards, as might have been expected, the vigilance committee ascertained the facts in reference to these arms. The person who gave the information was Captain James Hutton of the schooner Bianca. He not only divulged his knowledge but volunteered his own services and the use of his vessel to prevent them reaching the hands of the law and order party. On motion of Burke his offer was accepted and the chief of police directed to send force enough to seize the arms and bring them to the committee rooms. The force sent consisted of eight or ten men led by John L. Durkee and Charles E. Rand. They overhauled the Julia on its way to San Francisco near Point San Pablo in San Pablo bay and, seizing the arms and their custodians Maloney and Phillips early on the morning of June 21, carried them to the city water front, where Maloney and Phillips were released and the arms, consisting of one hundred and thirteen muskets and a couple of sabers, were carted off to vigilance head-quarters. In overhauling the Julia, some damage was unintentionally done to that vessel; but it was promptly and satisfactorily paid for by the vigilance committee.

Early in the afternoon of the same Saturday, June 21, 1856, the executive committee, upon further consideration of the subject of the arms that had been seized, ordered the arrest of Maloney and Phillips. This service was committed to the

¹Judges and Criminals: *Shadows of the Past*, &c., 42, 53, 55; *The Vigilance Committee of 1856*, &c., 317.

charge of one of the committee's policemen, named Sterling A. Hopkins. He appears to have been a man who by officiousness had foisted himself upon the committee, one of those undesirable characters of whom the organization had not yet purged itself; and unfortunately he was now in a position in which he did much harm and yet did it in such a way that the committee was obliged to support and, as it were, justify him. Hopkins, learning that Maloney was at the office of Dr. Richard P. Ashe, captain of a company of the law and order forces, which was in the second story of the building occupied by Palmer, Cook & Co. on the northwest corner of Kearny and Washington streets, proceeded with several assistants directly to that place. He found Maloney there; but several other persons were also present and among them David S. Terry, who announced his official position as justice of the supreme court of the state and the fact that he was a peace officer and forbade any arrest of the kind proposed to be made in his presence. Hopkins thereupon withdrew; but only to call to his aid a larger force; and shortly afterwards he returned with more men to assist him in making the arrest. In the meanwhile, those who were in Ashe's office, including that officer, Maloney, Terry, Hamilton Bowie, Edwin A. Rowe and James McNabb, knowing perfectly well that if the vigilance committee wanted Maloney they would not likely be frightened from taking him by the mere hindrance of a justice of the supreme court, deemed it prudent to withdraw to the protection of the armory of the San Francisco Blues on the northeast corner of Dupont and Jackson streets. They accordingly proceeded in that direction, passing along Kearny street to Jackson and up Jackson towards Dupont—several of them and Terry among the rest being armed with guns.¹

When the party were a little more than half way from Kearny street towards Dupont and not far from the house of Pennsylvania Engine Company No. 12, Hopkins, with his increased force consisting altogether of some eight or ten men, again approached and again attempted to seize Maloney. Terry interposed with his gun. Hopkins took hold of it; and a struggle ensued, in

¹ *Vigilance Committee Record, June 21, 1856; Judges and Criminals, &c., 56, 57, Bulletin of June 21 and 23.*

the course of which Terry drew his bowie-knife and stabbed Hopkins in the neck about four inches from the left ear, inflicting a bloody and what was supposed at the time to be a dangerous if not fatal wound. Hopkins upon receiving the stab turned and was hurried by his companions into Pennsylvania Engine House, while Terry and his party ran up to the armory on the corner, where they found a number of the law and order forces. Almost in an instant there was great excitement; the streets in the neighborhood filled with people, and, as the crowd increased, the doors of the armory were closed. Word of what had taken place was immediately carried to vigilance head-quarters, where the executive committee at once ordered that Terry should be forthwith arrested. The great alarm bell was thereupon struck; and in response to its summons a very large number of the vigilance committee got together with arms in their hands and took their places in their respective companies. In less than fifteen minutes from the time the alarm sounded, which was about three o'clock in the afternoon, they were on their march under the leadership of Doane, counseled by a war committee specially appointed for the purpose consisting of Smiley, Truett, Dempster, Tillinghast, Ward and Dr. William H. Rogers. They proceeded at once—the major part to surround the armory of the Blues and several detachments to surround other buildings held by the law and order forces, including the California Exchange on the northeast corner of Kearny and Clay streets. The rapidity of the movement was remarkable. At the tap of the bell, which was the first and only general alarm given during the time of the vigilance committee, every man seemed to fly to his post; and it was noticed among other incidents illustrating their promptitude that a number of draymen, who were loading their vehicles on Front street, upon hearing the summons, left them standing in the street, slipped the harness from their horses, vaulted upon their backs and took their places in the ranks of the vigilance cavalry. In half an hour every place in the city, known or suspected of harboring law and order arms or forces, was completely hemmed in by rows of glittering bayonets and irresistible masses of armed men. The movement was so sudden and so apparently unanimous that whatever expectation the law

and order party may have previously had of making a stand against the vigilance committee, they now saw that it was folly to attempt to hold out any longer.

Such being the views of those inside the armory of the Blues, while the hemming-in process was going on and involving them in a web that was momentarily growing stronger and stronger, they sent out a letter addressed to the vigilance committee, proposing that if assured of protection against violence they would surrender. This letter was signed by Ashe as captain of Company A and Reese as first lieutenant of Company B. In answer the representatives of the vigilance committee sent back word that if Terry, Maloney and Phillips, together with all the arms and ammunition in the building, were surrendered, protection from violence would be assured—and a reply was requested in fifteen minutes, it then being ten minutes after four o'clock. About the same time, in answer to a request for further instructions from the executive committee, word came back that the previous orders to arrest Terry and Maloney should include also Ashe and the others. Some quarter of an hour later Ashe and Reese sent a second letter to the effect that, if Terry and Maloney while in the hands of the vigilance committee would be protected from violence by persons outside of the organization, they would agree to surrender on the terms just proposed, and stating that Phillips was not present in the armory. To this the war committee responded renewing their assurances of protection and calling attention to the fact that the time proposed in their first note had expired. While the negotiations were going on, several cannon were moved up in front of the armory building and assisted by their mute eloquence in compelling obedience to the committee's demands. But this assistance was hardly needed; and without further delay the doors were thrown open from the inside and a company of the vigilance committee admitted. In a very few minutes afterwards about three hundred muskets and various munitions of war were brought out of the armory, placed on drays and driven off to the vigilance head-quarters. Next, two carriages, near at hand, were driven up to the front door; Terry and Maloney were brought out and placed in them; large bodies of solid infantry, with cavalry on the outside, surrounded

the vehicles; and, at the word of command, all moved in procession towards Fort Gunnybags, leaving a strong detachment in guard of the armory and its remaining inmates, consisting of Ashe, Reese, Rowe, Bowie and others, some fifteen or twenty in number.

The procession, having Terry and Malone in charge, passed down Dupont street to Washington, thence to Kearny, down Kearny to Clay, thence to Montgomery, to Sacramento and thence to vigilance head-quarters. It was accompanied by greater crowds of people than followed Casey or Cora on their way to the same bourn or than even those black masses who witnessed their execution. On its way, as it approached the law and order stronghold in the California Exchange, the vigilance companies surrounding and guarding that place presented arms; before coming directly in front of the Exchange the procession stopped; and large detachments, including the cannon before mentioned, were withdrawn and added to the force surrounding that building. Scarcely had the procession moved on, and the new forces and particularly the cannon and cannoneers with their matches lighted taken up position, than Colonel Joseph R. West, who was in command of the place, surrendered and ordered his men to deliver up their arms. There were about two hundred and fifty muskets and rifles there, besides other arms and munitions of war, which were taken possession of by the vigilance committee and, like the others, sent down to their head-quarters; while a strong guard was placed over the law and order forces, some seventy-five in number, who were found in the building and had surrendered as prisoners of war. The same course, and with substantially the same results, was taken in reference to a sort of armory in charge of Calhoun Benham's law and order company near the corner of Montgomery and Pacific streets and another armory of similar character at Madam Pique's Hall at the corner of Kearny and Sutter streets. These were in substance all the law and order arms and the prisoners taken were nearly all the law and order forces in the city; and with their surrender and seizure, as has just been related, the armed opposition to the vigilance committee suffered a sudden and permanent collapse.

There were certain other law and order arms seized on the same Saturday besides those which have been mentioned. These were said to have been sent from Sacramento by order of the governor to the state prison at Point San Quentin for the purpose of being there repaired and put in good order and then forwarded to San Francisco. They consisted of eleven cases of muskets and three boxes of pistols and ammunition. They were sent down on the schooner Mariposa; but the vigilance committee, having been informed of the facts, sent an effective company of men on the sloop Malvina after them. The latter immediately proceeded to Corte Madera creek near the state prison; over-hauled the Mariposa; seized the arms, which had been concealed in the hold under several layers of brick, and brought them to Clay street wharf, where they arrived at five o'clock, only six or seven hours after they had started out. These arms, like the others, were carted to vigilance head-quarters in charge of a large detachment of men sent for the special purpose. Later, on the same busy Saturday, and as late as ten o'clock in the evening, the law and order prisoners, who had been taken and were under guard at the various armories, were gathered into a body in front of the California Exchange on Kearny street. Some of the noisiest and most obstreperous were handcuffed. There were about ninety of them altogether. They were surrounded by about a thousand of the vigilance infantry fully armed and these were flanked by a hundred cavalrymen with drawn sabers. The object was to remove the prisoners to vigilance head-quarters; and, as soon as proper arrangements were made, they were marched down by way of Kearny, Washington, Montgomery and Sacramento streets to the committee rooms, where they were placed under guard for the night.¹

Terry had thus managed by his violence, not only to get himself into very serious difficulty and danger, but also to involve in a most disagreeable predicament, and to some extent at least in disgrace, many of his friends. He had completely ruined the law and order cause, not only in so far as it represented the rowdy element, but also in so far as it represented that better

¹ Vigilance Committee Record, June 21, 1856; Bulletin of June 21 and 23, 1856.

part of the party, who believed that the infraction of law involved in the existence of a vigilance committee could not be compensated by any possible good any committee could accomplish. It is true that most of the latter class, including a number of the lawyers of the city, had already withdrawn in disgust from participation in the law and order movement; but a few were still left and were obliged to suffer the humiliation, which was the natural and by no means to be unexpected result of Terry's action. On Sunday, the day after the capture, about eleven o'clock in the morning—it being then certain that no more apprehension was to be felt in reference to the law and order forces who had recently been arrayed against the committee and everything in the city being quiet, the prisoners, who had been marched into the committee rooms the night before and kept there under guard all night, were formed in line and informed that they would be released. At the same time they were told that if at any subsequent time they should be found in arms, acting against the committee of vigilance and the good order of the community, they might expect such punishment as the committee knew how to inflict. They were then, with the exception of Terry, Maloney, Ashe and five or six others, marched out in squads of four through files of vigilance soldiers extending up on Sacramento street as far as Battery and then discharged.¹

It was the fate of Volney E. Howard, the nearest and perhaps the sincerest friend of Terry, to be most humiliated of all. He had consented, probably at the suggestion of Terry and more on his account than for any other reason, when Sherman resigned, to accept the position of major-general of the law and order forces. Like Terry, he had lived in Texas and was familiar with the rough life of that wild frontier; but he was of more gentle and refined nature and disposition than Terry. It was doubtless rash in him to undertake a task which Sherman found impracticable to carry out; but he did his best and perhaps deserved more credit than he got. It was his fortune, on the Saturday afternoon when Hopkins was stabbed and Terry, Ashe and others fled to the armory of the Blues, to be a few minutes behind those persons; and when he arrived and demanded to

¹ Vigilance Committee Record, June 22, 1856; Bulletin of June 23, 1856.

be allowed to enter the building, the vigilants, who were then guarding the doors, denied him admittance. "Perhaps," remonstrated Howard, "you do not know who I am?" "No," answered the vigilance guard, "we do not." "Well," replied the other, "I am General Volney E. Howard." The guard rejoined that it made no difference who he was, he could not pass. Howard inquired if he wished to see the city laid in ruins. "No," said the guard, "but you cannot enter." And with this Howard was obliged to retire. After the seizure of the armory and the incarceration in the vigilance head-quarters of Terry and Maloney, Howard made his appearance at the outposts of the committee on Front street and requested an interview with the executive committee. Coleman, Brittan and Jessup went to see what he wanted. They met him at the store of Rolla E. Brewster & Co. on the corner of Front and Clay streets and held a conference, in which Howard attempted to impress upon them the fact that they and their associates were outlaws and that they were taking very unwarrantable responsibilities upon themselves, which they might regret. He said that he would put them down in sixty days, if not before; and added that he had sent on to the general government at Washington for aid, and that it would certainly be forthcoming in a very short time. But in the meanwhile he desired to have an interview with the entire executive committee; and perhaps matters might be satisfactorily arranged. The executive committee, however, upon being notified of Howard's request, resolved that they would hold no communication with him except in writing and directed that he should be notified of this resolution and passed out beyond the lines of the special vigilance head-quarters' jurisdiction.¹

The want of respect, with which Howard was thus treated, was not so much because he was a general without an army as because of the bluster with which he had assumed the office of general and the threats with which he had attempted to cow down the committee. Almost immediately after the surrender of the law and order forces, finding himself without occupation, he hastened out of the city and proceeded to Sacramento, where

¹Vigilance Committee Record, June 21, 1856; Bulletin of June 23, 1856.

he rendered a written report to the governor of his campaign and services and an oral statement before a public meeting of citizens of what he claimed to be the enormities of the vigilance committee and particularly in their arrest and incarceration of his "distinguished friend—the able and high-minded Justice Terry." In this speech he was, however, even more unfortunate than he had been in San Francisco; for he had progressed but a short distance and hardly mentioned Terry when he was interrupted with inquiries as to what business a supreme court justice had to leave his exalted bench in Sacramento and engage in a street fight in San Francisco, in which there was no call for him to meddle and in which he could not meddle without dragging the judicial ermine in the mire. These inquiries were only the prelude to other interruptions and finally to so much noise and confusion that the speaker was obliged to retire, with a conviction that instead of helping his case he had injured it. In his written report to Johnson, after giving a very strained account of the rise and progress of the vigilance committee and its seizure of his army and his arms, he insisted—to use his own language—that "the circumstances connected with this movement are such as to leave no doubt on my mind that the insurgents aim at nothing less than an entire overthrow of the state government and secession from the federal Union." And, as if to give a reason for his assertion, he added that "it must be obvious to all men of ordinary discernment that this lawless association has proceeded from one crime and outrage to another until they have arrived at the conclusion that there is no safety for their leaders but in revolution and a separate government on the Pacific."¹

Dr. Richard P. Ashe's position was almost as bad as that of General Howard. He not only occupied the position of captain of Company A, but he was also United States naval officer of the port of San Francisco; and his arrest as such officer, immediately upon being made, suggested to the vigilance committee whether they might not thereby become involved in a difficulty with the United States government. This was by all means to be avoided; and probably, if Ashe had known what trouble his

¹ Bulletin of June 24 and 25, 1856.

presence caused, he would not have acted as he did. What he did do was to write to the executive committee avowing his innocence of any crime and requesting, under the belief that he was not accused of any, to be allowed to go on his parole. He promised as a man of honor, if this favor were accorded, to comply strictly, so far as remaining neutral in word and action were concerned, with his parole and to be in readiness at any time to respond to any call that might be made upon him. The committee was only too glad, after hearing his testimony in reference to the case of Terry's assault upon Hopkins, to comply with his request; and he was accordingly after a day's confinement released, Jessup and Ward being appointed to accompany him beyond the vigilance guards. On the next morning, apparently appreciating that he had made a mistake by his haste, he again wrote to the committee requesting permission to publish "a card, the tendency of which would be to place his friend Terry right before the community." The committee answered that such a publication would be esteemed by them a forfeiture of his parole. On the afternoon of the same day he again wrote asking permission to publish a card in defense of Terry; but the committee replied in positive terms that they could not countenance or approve any such publication, while Terry was in their custody, and that his own promises on parole prevented him from doing anything of the kind. Nearly two weeks afterwards, on July 5, while the Terry trial was going forward and much excitement prevailed on account of Hopkins' reported precarious condition and Terry's consequent danger, Ashe a third time wrote to the committee, on this occasion asking to be allowed to withdraw his parole. He was again informed that, as he had given his parole voluntarily, he would be held to a faithful observance of it. In reply he complained of the severity of the committee towards him and requested a copy of the letter of June 22, in which he had asked to be released. Upon it being sent to him, he wrote a fourth letter upon the same subject. But the matter had by this time become stale; and the last letter and the whole subject were by the committee laid upon the table; and a resolution was adopted that, in case Dr. Ashe should give himself up or presented him-

self again as a prisoner, he should be notified that he could not be received and should be considered as still at large on his parole.¹

All apprehensions of difficulty with the United States government on account of Naval Officer Ashe being thus removed by Ashe's own action, there was not much anxiety felt about General Howard's threat of interference by the general government at Washington and its laying the city in ruins. On the contrary everything indicated that it would not interfere, as in fact it did not. On the same May 31, upon which Governor Johnson and General Sherman called upon General Wool at Benicia and managed to get from him what they called his promise to issue arms and munitions of war from the United States arsenal at that place, as has already been stated, they also proceeded to the United States navy-yard at Mare Island and requested naval aid from Captain, afterwards Admiral, David G. Farragut, then commanding at that post. Farragut, however, was clear that he had no power to interfere without authority from Washington and absolutely refused to do so.² As to the promise claimed by Johnson and Sherman to have been made by Wool, it does not very clearly appear what the facts really were. Johnson and Sherman differed radically in their statements about the promise; and the words attributed to Wool by Sherman could not justly be claimed to bear out the assertion, while Wool himself denied that he had made such a promise or that he had any authority to make it. But however this may have been, he on June 5, and afterwards more emphatically and positively on June 9, declined and refused to issue the arms asked for and gave as his reason that no person but the president of the United States had the authority to issue them and that the president in a recent somewhat analogous case in Kansas territory had refused to do so.³

Notwithstanding Wool's mention of the fact of the president's refusal to interfere in the Kansas case, Johnson saw proper not only to make an application to him but even to send two special commissioners, supposed to be influential men, to Washington and

¹ Vigilance Committee Record, June 22 and 23 and July 5 and 6, 1856.

² Sherman Correspondence, Century Magazine, December, 1891, 302.

³ Ex. Doc. 3 Sess. 34 Con. S., Vol. VIII, No. 43, 4, 6, 12-15.

make an urgent personal appeal upon him. He and his counselors seemed determined to leave no stone unturned to bring on a conflict; and, as they had failed with Wool and Farragut, they made up their minds to try President Pierce. The persons selected for this service were R. Augustus Thompson and Ferris Forman. They were appointed on June 18 and directed to proceed by the most rapid means of conveyance and ask the president for such arms and ammunition, together with the aid of the naval and military forces of the United States, as might be required to suppress the existing insurrection in San Francisco, and that orders should be given the officers commanding the department to render such assistance at any future period as might be required by the state executive. Johnson sent with them a letter written by himself, dated June 19, 1856, and addressed to the president, in which he gave an account of the vigilance committee and, as might have been expected, misrepresented them and in substance charged that they were seeking to break up and destroy the government. He also made statements in especially bad taste about Wool's alleged promise, which led to a subsequent newspaper controversy in no way creditable to Johnson. In conclusion of his letter to the president he begged leave to refer to Thompson and Forman for a more detailed and minute relation of affairs than could be embodied in his written communication.¹

President Pierce, more perhaps as a matter of courtesy than for information, referred the matter of Governor Johnson's application to Caleb Cushing, United States attorney-general. That officer examined the law very thoroughly and answered on July 19, 1856, at considerable length to the effect that a case had not been made out in which it would be proper for the president to interfere; that, if a proper case existed, the proper preliminary steps had not been taken, and that, even if the case existed and the preliminary steps had been taken, the aid and assistance asked were not of a kind authorized by law or such as it would be proper under any circumstances to grant. In other words it was shown by Cushing's answer that Johnson had made an inconsiderate demand, betraying inattention to and perhaps igno-

¹Ex. Doc. 1 & 2 Sess. 34 Con. S., Vol. XV, No. 101, 2-4, 6, 7.

rance of the law which he was attempting to invoke, or—to give what seems to be the full explanation—that by listening to the counselors for whom he had deserted Sherman he had been drawn into another blunder. On the same day that Cushing wrote his opinion, William L. Marcy, United States secretary of state, acting on behalf of the president, wrote to Johnson that the conclusions submitted by the attorney-general constituted insuperable objections to granting his requests.¹

¹Ex. Doc. 1 & 2 Sess. 34 Con. S., Vol. XV, No. 101, 7-13.

CHAPTER XII.

VIGILANCE COMMITTEE OF 1856 (CONTINUED).

IN the meanwhile Terry was confined under strict guard in a narrow cell in the vigilance committee's head-quarters; and, instead of acting any further as counselor to the governor or defender and protector of the law and order forces, he found that he had quite enough to do to save his own neck from the rope that throttled Casey and Cora. Within a very few hours after his arrest and incarceration, on Saturday afternoon, June 21, the executive committee decided to proceed to his trial the next morning at ten o'clock and determined that after the trial commenced no recess, exceeding thirty minutes in duration, was to be taken until it was completed, except for want of evidence. It was also resolved that the trial should be governed by the same rules which had been adopted in the Casey case, provided however that no vote of the executive committee inflicting the death penalty should be binding unless passed by two-thirds of those present and that those present and constituting the trial jury should not be less than twenty-six members or two-thirds of the whole body. On Sunday morning the trial was proceeded with, so far as to take the testimony of Dr. Ashe previous to his discharge on parole, as before stated; but that was in substance all that was done in the matter on that day, many other important subjects engrossing the attention of the committee. Subsequent to that examination James D. Thornton and Alexander P. Crittenden were admitted to see and consult with Terry; and soon afterwards it was moved by Miers F. Truett and carried that Mrs. Cornelia Terry, the wife of the prisoner, a lady who created a very favorable impression and whom everybody seemed disposed to favor, should be permitted to see her husband at any hour she might demand admittance. As a matter of fact she

wanted to see him at once; and, though requested to wait until next day, she insisted upon an immediate interview and was accordingly admitted on Sunday evening. As may well be understood, she felt anxious and particularly in view of the very general opinion, expressed on all sides and undoubtedly well founded, that Terry's life depended upon the life of Hopkins, whom he had stabbed.¹

As to Hopkins' condition there were many exaggerated rumors and reports, representing it as much worse than it was. After receiving his wound and being taken to Pennsylvania Engine House, as has already been related, he was there put to bed and subjected to surgical treatment. There seems to have been considerably more fuss made about him, both by the newspapers and the public and particularly by the surgeons and doctors, than he or his case deserved. But he had suffered in the vigilance cause; and the general sympathies of the community were with him. About the same time on Sunday evening that Mrs. Terry was with her husband, Dr. R. Beverly Cole, who had main charge of Hopkins, was called before the executive committee to give his opinion about his patient's situation and prospects; and he insisted that the wound was, or rather was to have been considered, a mortal one and would have been fatal in five minutes from the time of operation, if an operation had not been performed. He added that notwithstanding the operation Hopkins' condition was very precarious and that the critical period would be during nine days, commencing three days after the time he spoke—thus leaving a very considerable margin for wild rumors, dreadful anxiety and daily bulletins from the doctors. Whatever truth there might have been in Hopkins' reported danger—and a fierce stab in the neck was likely to be regarded by nearly everybody as extremely serious—the pother and excitement that for a couple of weeks afterwards were kept up about the matter—and even though Terry's life depended upon the outcome—were enormous; and in after days, upon looking back upon all the circumstances, they could not be considered as otherwise than a nine days' wonder.²

¹ Vigilance Committee Record, June 21 and 22, 1856.

² Vigilance Committee Record, June 22, 1856; San Francisco newspapers from June 22 to July 22, 1856.

On Sunday evening a sort of indictment was formulated against Terry. It consisted of three main charges: first, of resisting with violence the officers of the vigilance committee while in the discharge of their duties; second, of committing an assault with a deadly weapon with intent to kill Sterling A. Hopkins on June 21, 1856, and, third, of various breaches of the peace and attacks upon citizens while in the discharge of their duties. Under the last charge there were five specifications: first, resistance in 1853 to a writ of habeas corpus on account of which one Roach escaped from the custody of the law and the infant heirs of the Sanchez family were defrauded out of their rights; second, an attack in 1853 on a citizen of Stockton named Evans; third, an attack in 1853 on a citizen of San Francisco named Purdy; fourth, an attack at a charter election on a citizen of Stockton named King; and fifth, an attack in the court-house on a citizen of Stockton named Broadhouse. Upon these various charges he was subsequently tried; and his trial would have proceeded immediately as had been resolved, if it had not been for various difficulties which conspired to delay it. As may readily be understood, Terry's position as a justice of the supreme court of the state was not only calculated to make a number of persons hesitate about trying him at all; but it caused a few prominent and influential persons to see proper to interfere and thereby still further complicate a problem which was complicated enough already.¹

Among others who rushed forward in the hope, as they expressed it, of being able to pour oil upon the troubled waters was David O. Shattuck, judge of the superior court of the city of San Francisco. He was a well-meaning and honorable man, who on the bench followed his own notions of law and was exceedingly fond of writing opinions. His decisions were not learned and could not be regarded as precedents. But as his intentions were excellent, and he was industrious and painstaking, his adjudications were usually correct; and he was looked upon by the community, and deservedly so, as an honest man and an upright judge. He was understood to be on the whole a sympathizer with the vigilance committee; but directly after

¹ Vigilance Committee Record, June 22, 1856.

the arrest of Terry he apparently became alarmed; and, mis-calculating the weight and influence of his own augmentative and persuasive powers, he assumed and volunteered to give a legal opinion in reference to the Terry case. He started out with the proposition that Terry's position should not shield him; and he admitted that Terry had conducted himself very indiscretely; but he denied that he was guilty of crime or could be held to have acted with any criminal intent. He maintained—and this was the main underlying foundation upon which his argument was based—that the governor's proclamation had created a state of war and that all the acts done by either party against the other were acts of war. If Hopkins had killed Terry, Hopkins would not have been guilty of murder, because Hopkins was merely a soldier or subordinate obeying the orders of his superior; and that superior was recognized by the proclamation as a belligerent. So if Hopkins should die, Terry would not be guilty of murder, because he was obeying superior orders. He was, argued Shattuck, at the time of stabbing Hopkins a recruit of Captain Ashe. He was bearing arms and inflicted the blow for the protection from arrest of Ashe's soldier Maloney; and therefore he was in contemplation of law merely an instrument and could have no guilty intent. For these reasons, while commanding the committee for everything else that they had done and hoping that the work for which they had organized might be accomplished, he maintained that Terry was not guilty and ought to be treated as a prisoner of war and discharged.¹

It is very plain that Shattuck's reasoning about a state of war and its effects was all wrong; but his error in writing his letter was not so much in his mistake of law as in his mistake of attempting to lay down the law at all. Even on his own assumption that a state of war existed, he seemed to forget the old legal maxim that in the midst of arms the laws are silent—and particularly under the peculiar circumstances such laws as he advocated. He avowedly expected that he would find a great many persons in the community to agree with him. But he was entirely mistaken. His letter, which was quite lengthy, had been addressed and sent to the committee on June 23; but that

¹ Bulletin of June 26, 1856.

body declined to make any reply. Shattuck then sent it to the newspapers; and it was published on June 26. It had scarcely appeared, however, before he found that it provoked opposition on every side; and, instead of pouring oil upon the troubled waters, it seemed to nettle and inflame bad blood all around. The newspapers soon tore his argument, such as it was, to pieces; and numerous correspondents badgered him with pictures of the results of his doctrines, if carried out. In a day or two afterwards he realized that he had gone too far and substantially vacated the position he had assumed in a card to the public, published on June 28, in which he said that he had not intended, in writing his letter, to throw a bomb-shell into the community and hoped no one would take fire. He had simply intended it as a messenger of peace, but he had found that it turned out to be rather the contrary. He had written it in haste and was alone responsible for it. He was perfectly willing to acknowledge that he might have been in error—and to acknowledge further that, if in error, it would not be the first time he had been in error. But he had the satisfaction of feeling that whatever electrical excitement he had unfortunately stirred up, he had also weakened the strength of the dangerous element by drawing the major part of it off on his own head.¹

In the meanwhile, and as if on purpose to complicate the situation and intensify the general excitement, the law and order party, on the same Saturday that Terry stabbed Hopkins, procured the issuance out of the United States circuit court of warrants of arrest against John L. Durkee, Charles E. Rand, James Hutton and William E. B. Andrews for alleged piracy in seizing the arms on the schooner Julia. On Sunday afternoon Durkee was arrested by the United States marshal and taken to and confined in his office. The arrest was the occasion of a great uprising, particularly among portions of the rank and file of the committee, who congregated and stormed around the building containing the marshal's office, denouncing the act and actors and threatening to tear the structure down and rescue the prisoner. The executive committee, upon hearing of the arrest, immediately

¹Vigilance Committee Record, June 23, 1856; Bulletin of June 26, 27 and 28, 1856.

appointed a sub-committee to procure counsel for Durkee and, upon hearing of the incidents at the marshal's office, on motion of Burke, resolved that the necessary steps should at once be taken to prevent so gross a breach of military discipline as a rescue without orders from head-quarters; and directly afterwards, on motion of Smiley, Rand, Hutton and Andrews were requested to submit peaceably to arrest whenever the United States marshal should come after them. But while thus willing to comply with the orders of arrest issued out of the United States circuit court for their own men, the executive committee, not being yet done with their own prisoner Maloney, were unwilling to give him up in response to a writ of habeas corpus issued out of the same court; and on Monday morning, when the marshal appeared with the writ, Maloney and a few others who might give information about him were temporarily removed from the building. When the marshal was admitted and allowed to search for his man, he of course failed and was obliged to leave without being able to find him. The marshal, while in the building, attempted to confer with Terry but conversation between them was prevented by Dempster, whose action was approved by the executive committee; and two days afterwards, they resolved that, in case any writ were issued out of the United States circuit court for Terry, every effort to secrete him and thus avoid collision with the United States authorities should be resorted to; but in no case should Terry be surrendered.¹

During these two days the first of numerous efforts, either by himself and his friends or by citizens who were fearful of what the consequences might be, was made to procure the release of Terry. On the night of his arrest, it had been determined by the committee that his trial should commence next day; and, when other business intervened to prevent, it was determined that it should commence Monday. On that day Terry wrote a letter asking for delay; but the committee declined to accede to his request. Almost immediately afterwards, however, upon the appointment of Miers F. Truett as counsel for the prisoner, the trial was postponed until Wednesday afternoon. On Monday afternoon a delegation of citizens applied to be heard in reference

¹ Vigilance Committee Record, June 22, 23 and 25, 1856.

to the Terry business; and, after some discussion as to communications with the prisoner, they were admitted. They consisted of Bailie Peyton, Frederick A. Woodworth, Henry M. Naglee, Andrew J. Randall and others; and their object was to make an arrangement by which a certain number of Terry's friends might be admitted to see him in order to agree upon some proposition, with a view to his release, which would be acceptable to the vigilance committee. Peyton suggested various names; and it was resolved that James D. Thornton, Duncan W. Perley, Henry P. Lubbock, Alexander P. Crittenden and Hall McAllister might interview and consult with Terry; but only and strictly on the subject proposed and on their pledge of honor not to agitate any other question. There was perhaps a particle of weakness or at least an appearance of weakness on the part of the committee in the entertainment of such a proposition; and many members felt dissatisfied. Among others, Smiley, who had been charged with the conduct as prosecuting attorney of the Terry trial, was so much disgusted with the turn affairs seemed to be taking that he tendered his resignation as a member of the executive committee. On motion of Burke, however, a resolution was adopted that every member was bound to serve in the position in which he could be most useful; that the committee could not consent to be deprived of services which had contributed so highly to the success which had up to that time attended their efforts, and that therefore Smiley's services could not be dispensed with and his resignation should be respectfully returned to him.¹

On Tuesday morning it was deemed proper to caution the grand marshal against allowing any but the most reliable men to be placed on guard over Terry and to order that no one, except Mrs. Terry, should be admitted to see him unless with the consent of at least eighteen members of the executive committee. Soon afterwards another delegation of citizens, among whom were Edward W. Church, Gwin Page, Theodore Payne, Lafayette Maynard, Gustave Touchard, John Sime and William McMichael, headed as before by Bailie Peyton as chairman, presented to and left with the executive committee a document containing the propositions that had been agreed upon by Terry or his friends

¹ Vigilance Committee Record, June 23, 1856.

with the object of procuring his release. These propositions appear to have been based upon his consent that he would resign his office and leave the state. But owing to the feeling that had already been manifested by a very large proportion of the vigilance committee in reference to holding any communication with a view to any compromise, and upon motion of Smiley, it was resolved that no propositions should be entertained until after Terry's trial should have been concluded. On the evening of the same day, however, this resolution was rescinded; and, on motion of Smiley, it was ordered that an answer should be returned to the delegation of citizens that it would be impossible for the committee for the time being to decide definitely upon the propositions submitted, but that the subject should receive their earnest attention and a reply be given at the earliest practicable moment.¹

Terry's trial had been fixed for Wednesday; and on that day it was resolved that the rules and mode of procedure adopted in the cases of Casey and Cora should be applicable to the Terry case, except that the order of trial should consist of: first, a statement of the prosecution; second, evidence for the prosecution; third, statement of the defense; fourth, evidence for the defense; fifth, speech of counsel for the defense; sixth, speech of Terry if he desired to make one; and, seventh, closing speech of prosecuting attorney. This looked like action; but there were still obstacles to progress; and the trial had to be postponed until the next afternoon. It appeared to be the interference of the citizens' delegation almost as much if not even more than the exalted station occupied by Terry that caused the obstructions; and it was on this account apparently, at the instance of Dempster, resolved that no motion should thereafter be in order either to accept or to receive any propositions from Terry or from any other parties in relation to his case, unless the proposers should first pledge themselves that the propositions offered were entirely unconditional and that after being proposed they should remain subject to the acceptance of the committee at any time and even after any other action the committee might take; and, further, that it should not be in order for any presiding officer to put to the vote

¹ *Vigilance Committee Record, June 24, 1856; The Vigilance Committee of 1856, &c., San Francisco, 1887, 41, 42.*

any question involving the acceptance or rejection of any such propositions, until after a verdict of guilty or not guilty of the indictment against Terry should have been rendered. This action, or a knowledge of the spirit of the committee which prompted it, induced Gwin Page and others of the citizens' delegation to ask back the written propositions that had been presented the day before; and they were at once returned without retaining copies. Very shortly afterwards an account was received from a presumably reliable source of a projected plan, conceived by the friends of Terry, to attack the vigilance head-quarters on that Wednesday night and rescue him. In view of rumors of this nature and the general vexed situation of affairs, the marshal and director of police were requested to at once examine and make an immediate written report as to the safest cell in which to secure Terry; and, at the evening session of the same day, it was ordered in peremptory terms that no person, excepting Truett, should be admitted to Terry's cell upon any pretext or under any circumstances without a written permit, giving the name of the bearer and authenticated by the seal of the committee, and that a strict account should be kept of these permits and compared at the close of each day with the record of their issue.¹

It was about this time that James Dows, a prominent member of the committee, who had an extraordinarily brilliant but unfortunately uncultivated intellect, pertinently and graphically described their position by saying, "We started out to hunt coyotes; but we've got a grizzly bear on our hands; and we don't know what to do with him."² And certainly, judging from his ponderous though unskilled efforts at release, and still more certainly in comparison with the other prisoners, Terry was indeed a grizzly bear on their hands. But the committee was equal to its task; and, as soon as it was known that they had at length made up their minds what to do with him without reference to outside pressure or interference, the grizzly became somewhat less violent. On Thursday morning George R. Ward, who with Tillinghast had been appointed to investigate the rumor of

¹ Vigilance Committee Record, June 25, 1856.

² *The Vigilance Committee of 1856, &c.,* 40.

attempted rescue, reported that he had had an interview with Terry on the subject and that Terry had given his parole not to communicate, by shout or otherwise, his whereabouts in the building. Ward also produced a letter, handed him by Terry and addressed to Alexander P. Crittenden, in which Terry expressed a desire that no writ of habeas corpus should be issued in his behalf as it would prejudice his comfort and safety. This was perhaps the first indication of submissiveness on the part of the captive; and, as matters turned out, it would seem that it led to, or at least permitted, a reconsideration of the project of a general accommodation and settlement of all the difficulties existing between the vigilance committee and the state government. At any rate the subject was thereupon taken up and the committee, consisting of Farwell, Tillinghast and Ward, who had been appointed to meet a committee of citizens, consisting of Archibald C. Peachy, Charles T. Botts, Alonzo C. Monson and Joseph G. Baldwin, instructed to negotiate on the basis—first, that Terry and Murray should resign from the supreme bench and leave the country and their places be filled by persons satisfactory to the people of the state; second, that all the county officers of San Francisco should vacate their official positions; third, that all the prisoners in the custody of the committee and such other evil characters as it had pointed out should be compelled to leave, never to return; and, fourth, that it should not be considered a breach of good faith on the part of the committee at any time to enforce their sentences on any banished parties who after being sent out of the country might contemptuously return. At the same time as a matter of precaution, it was ordered that until the conclusion of the Terry trial, which was postponed until the next day, a force of not less than seventy-five men should be kept at the committee building and that sentries should be maintained at the following named points—four at the corner of Sacramento and Front streets; four at the corner of Sacramento and Davis; four at the corner of Commercial and Front; four at the corner of Commercial and Davis; four at the corner of California and Front; two at the corner of California and Davis; two at the corner of California and Battery; two at the corner of Sacramento and Battery; two in front of Truett's

building, besides a strong guard inside the sand-bag fortification on Sacramento street, and a picket guard of twenty-five men inside the building ready to be marched at a moment's notice to any point where they might be needed.¹

At last on Friday morning, between ten and eleven o'clock, the trial of Terry actually began. He was brought before the entire executive committee sitting as a jury. Coleman, the president, addressed them as to their duties; and then Smiley read the charges preferred by the indictment. To these Terry at first refused to plead and continued to refuse until after he was assured that there was no outside pressure bearing upon the committee; and he then, in answer to all charges against him, pleaded not guilty of any offense whatever. Smiley then opened the case for the prosecution and called as witnesses D. M. Barry and Horace A. Russell; and in the evening session he called James S. Bovee and John Hanna. On Saturday, rumors of attack still being rife, on motion of Manrow, the guns in the chamber of the executive committee were directed to be put in order for immediate use; and on motion of Burke a portcullis drawbridge was ordered to be purchased, apparently for the purpose of affording egress from the second story of the building in case of such an attack as would render it necessary. After these preliminaries for the day, the Terry trial was resumed and H. A. Thompson, Edward J. Salisbury and Joseph Caprice were called for the prosecution. In the evening a few more witnesses against Terry were examined; and an important report was received from James Dows, who had been added to the committee of conference with citizens on bringing about a compromise. He said in a few strong words that there had been a failure to obtain any satisfactory agreement with Terry; that the committee of conference was disgusted with the business, and that it trusted and recommended that, instead of wasting any more time in negotiations, the committee would pursue its own untrammeled course. The report was accepted—and that seems to have been the last heard of propositions by interfering citizens' committees for the release of Terry.²

¹ Vigilance Committee Record, June 25 and 26, 1856.

² Vigilance Committee Record, June 27 and 28, 1856.

It was said at the time, and doubtless with truth, that Terry had been willing to resign his office and leave the state and had so expressed himself; and that all the negotiations for his release, which would otherwise have been entirely vain, were based upon such an understanding. He very evidently did not fully appreciate the advantages of his position; for it seems clear enough that if he had simply denied the jurisdiction of the committee, refused in any manner to recognize its action, except by dignified passivity, and remained perfectly quiet, there would have been a strong and growing reaction in his favor and a majority at least of the committee would have found it exceedingly difficult, if not impossible, to do anything serious against him. But, whether he actually ever agreed to resign or whether his friends merely thought he would agree to do so, it was certainly the general understanding at the time that Mrs. Terry prevented his resignation. She refused to listen or consent to any admission that he had been in the wrong, which she thought implied by resignation; and by her dignified and determined stand she induced him, just after his trial commenced, to refuse absolutely to leave the building alive except as justice of the supreme court. And it was apparently this final determination, after the vacillation which had preceded it, that, as Dows expressed it, had disgusted the committee of conference and put a sudden stop to the negotiations. As the matter then stood, having thus determined not to resign but on the contrary still to oppose and fight the committee notwithstanding the admissions he had made, Terry's next move was to attempt to get Commander E. B. Boutwell of the United States sloop-of-war John Adams, then lying in the harbor of San Francisco, to interfere and thus bring about on his own behalf the conflict with the federal authorities, which the law and order party had failed to bring about on behalf of the state.

Boutwell seemed to be not only favorable to the project but to have unlimited confidence in himself to manage and carry it out; and, had it not been for the cooler and more prudent authority exercised over him by his superior, Farragut, he might have done incalculable damage. He had first addressed the vigilance committee on June 21 in reference to the arrest of Dr. Ashe, the naval officer of the station, asking how long he was to be kept

in confinement and asserting that the suspension of the duties of the naval officer might embarrass him in getting to sea as soon as he proposed. So far as known he had no idea of going to sea for some time; but the committee returned a polite reply that, though it was impossible to tell how long Dr. Ashe would be kept in custody, all possible facilities would be afforded for the transaction of his official duties; and they trusted that the unavoidable circumstance of Ashe's detention would occasion no inconvenience to Commander Boutwell or delay the departure of his ship. The next mention and appearance of Boutwell was on June 26, when James Y. McDuffie, the United States marshal for the northern district of California, addressed to him a communication stating that he had in his custody a prisoner, referring to Durkee, awaiting the action of the grand jury of the district on a charge of piracy and asking, in view of the probability of an attempt at rescue, whether he would consent to receive him on board his vessel for safe keeping. Boutwell immediately replied that as the offense of the prisoner referred to was an act of piracy and a violation of the laws of the United States as well as of the law of nations, he would receive him on board, to remain until he should be ready to go to sea, which he hoped would be in a few days.¹

On the next day, Friday, June 27, the day on which Terry's trial commenced, Governor Johnson, who was evidently apprised of all that was going on and of the new attempt to bring about a conflict with the United States authorities, addressed a communication to Boutwell from the executive department at Sacramento in which he asserted, among other things, that Terry, while "engaged in the due performance of his duties as a peace officer of the state and in the defense of his lawful rights as a citizen thereof," had been assailed by a body of armed men, members of the vigilance committee; that he had been soon afterwards forcibly seized by them, confined at their place of meeting and held and deprived of his liberty in utter violation of his rights under the constitution of the United States and of California and the laws enacted in pursuance thereof; and, further, that from the

¹Ex. Doc. 1 & 2 Sess. 34 Con. S., No. 101, 21-23; Vigilance Committee Record, June 22, 1856.

condition of affairs existing in San Francisco and, he thought he might add, in other parts of the state, he had no hesitation in saying that Terry's life was in imminent danger and peril from the lawless violence of the vigilance committee; that it was wholly beyond the civil or military power of the state to protect him from such threatened violence, without the resort to means which would in all probability involve the state in civil war—a calamity greatly to be deprecated; and that therefore, in the name and by authority of the power vested in him as governor of the state of California, he asked at his hands and with the power and means under his command the protection and security of the said Terry from all violence or punishment by said committee or any other power, "except such punishment as may be inflicted on him in due course of law."¹

In reading and considering the terms of this effusion by the governor, Boutwell might have asked what he meant by "such punishment as might be inflicted on Terry in due course of law," if Terry were the innocent, dutiful and abused individual he had represented him in the first part of his paper. Again, he might have asked why the governor thought proper to write to him on so important a matter instead of to his superior, Farragut. But whether these questions occurred to him or not, he did not hesitate, immediately upon the receipt of Johnson's letter, without referring the matter to Farragut or notifying him in any way, to write and transmit to the vigilance committee a communication, which was quite as remarkable, though for a different reason, as that of the governor to himself. He commenced by informing the committee that they were either in open rebellion against the laws of their country and in a state of war or they were an association of American citizens combined together for the purpose of redressing an evil, real or imaginary, under a suspension of the laws of California. If they occupied the position, assigned them by Judge Shattuck, of being in a state of war, he as an officer of the United States, requested them to deal with Judge Terry as a prisoner of war and to place him on board of his ship. But if they desired to occupy the position of acting under a suspension of or against the laws of California, they ought—from a

¹ Ex. Doc. 1 & 2 Sess. 34 Con. S., No. 101, 23.

desire to conform to the requirements of the constitution, from a regard to justice, and, above all, from a desire to avoid the shedding of American blood by American citizens on American soil —to surrender Terry to the lawful authority of the state. They were familiar, he doubted not, with the case of Kostza; and, if the action of Captain Ingraham in interfering to save the life of Kostza, who was not an American citizen, met the approbation of his country, how much more necessary was it for him to use all the power at his command to save the life of a native-born American citizen, whose only offense was believed to be an effort to carry out the law, obey the governor's proclamation and the defense of his own life. The attack of the policeman of the vigilance committee, who perhaps would have killed Terry if Terry had not wounded him, was clearly without sanction of law. They should therefore pause and reflect before they condemned to death, in secret, an American citizen who was entitled to a public and impartial trial by a judge and jury recognized by the laws of his country. He trusted they would appreciate his motives and consider his position and prayed that some arrangement should be made by which peace and quiet might be restored to the excited community.¹

On the same Saturday, June 28, on which Boutwell thus wrote to the vigilance committee, Terry added his efforts to bring about a conflict by, in some unexplained way, managing to get a letter conveyed to Boutwell. In this he said that he desired to inform him that he was a native-born citizen of the United States and one of the justices of the supreme court of California; that on June 21 he had been seized with force and violence by an armed body of men styling themselves the vigilance committee and conveyed to a fort which they had erected and formidably intrenched with cannon in the heart of the city of San Francisco; that since that time he had been held a prisoner in close custody, guarded day and night by large bodies of armed men; that such committee was a powerful organization of men acting in open and armed rebellion against the lawful authorities of the state; that they had threatened to subvert by violence its constitution and laws; that they had resisted by force the execution of

¹ Ex. Doc. 1 & 2 Sess, 34 Con. S., No. 101, 25, 26.

the writ of habeas corpus and had publicly declared, through their organs, that their will was the supreme law of the state. He further asserted that the government of the state had already made ineffectual efforts to quell the rebellion and that the traitors, emboldened by success, had already hung two men and banished a great many others, and that some of their members openly threatened to seize the forts and arsenals of the United States as well as the ships of war in port and secede from the federal Union. He went on to say that during his imprisonment he had suffered the indignity of being handcuffed by the rebels; that his friends were denied all access to him, and that all kinds of terrorism were resorted to in order to compel him to resign his office. He further desired to inform Boutwell that the vigilance committee were then engaged in trying him as a criminal for attempting resistance to their authority and also for an assault with an intent to kill one of their members, whilst he had acted solely in defense of his own life against their assaults on the public street, and that he was in hourly danger of suffering an ignominious death at the hands of these traitors and assassins. In this emergency he invoked the protection of the flag of his country. He therefore called upon Boutwell promptly to interfere, with all the powers at his disposal, to protect his life from the impending peril. He begged to remind him of the conduct of the noble and gallant Ingraham, when the life and liberty of a man only claiming to be an American citizen was concerned, and he flattered himself from Boutwell's high character that his appeal would receive early and favorable consideration.¹

It is possible that Boutwell received Terry's letter before he wrote his own to the committee. Or it may be that he received it afterwards and upon its perusal changed his mind about the prudence of going too fast in allowing himself to be used for bringing about a conflict. Whatever may have been the case in this respect, on the next day, when he replied to Johnson, he wrote in a very different spirit, saying that he was sorry to be compelled to inform him that the unanimity, with which the people of the city of San Francisco deprecated any interference

¹ Ex. Doc. 1 & 2 Sess. 34 Con. S., No. 101, 26, 27.

on the part of the federal government with their affairs, would, he thought, if he were to interfere, do much injury, endanger the life of Terry and delay the settlement of the unhappy controversy then existing. He understood that Hopkins was improving and that in a few days more might be so far recovered as no longer to afford the committee any excuse for keeping the judge in custody. A civil war, the greatest of horrors, ought to be avoided if possible; and any interference that he might make to obtain the person of Terry without the sanction of the committee might bring one about. He could destroy the city of San Francisco with the guns of the John Adams; but in the ruin friends as well as others would suffer. If he could persuade the committee to set Terry at liberty, he would be most happy to do so; but, if he demanded his release and they failed to give him up, he would either have to batter the town down or render himself ridiculous in the eyes of the world and incur the displeasure of his government—neither of which was consonant with his present feelings. But if Hopkins should die and the committee condemn Terry to death, he would make an effort to save his life in such a manner as not to be offensive to his fellow citizens.¹

On Monday, though "33 Secretary" had already on Saturday informed him his communications to the committee would receive their due consideration, Boutwell again wrote, requesting to be informed what action they intended to take in reference to Terry and what reply he was to expect to his letter, and as a reason for his request he said he wished his correspondence with the state government and with the committee to go forward to Washington in the steamer of July 5. Exactly what the object of his haste in getting his papers to Washington was he did not state; but it was doubtless because he knew that some action, one way or the other, would soon be taken there in response to Johnson's attempt to procure the interference of the United States government and perhaps he thought it might be important for his own prospects to show that he had been a prominent factor in the controversy. It is at least difficult otherwise to find an explanation for his conduct. But, much to his surprise and doubtless to his disgust also, "33 Secretary"

¹ Ex. Doc. 1 & 2 Sess. 34 Con. S., No. 101, 24.

immediately wrote back, in answer to his last note, that the committee had submitted the whole of his correspondence with them to his superior officer, Captain Farragut. The result was a characteristic rebuke from Farragut, severe though polite, written the next day. Farragut wrote that he had received from the vigilance committee all the correspondence and an additional note requesting his interposition. He went on to say that although he agreed with him in the opinions expressed in the correspondence in relation to the constitutional points involved, he could not agree that he, Boutwell, had any right to interfere in the matter of the vigilance committee in any respect; and so he had understood him to think when they had recently parted. The constitution required, before there could be any interference on the part of the general government, that the state legislature should be convened, if possible; and, only in case it was not possible to convene the legislature, could there be any interference on the application of the state executive. He had seen no reason why the legislature could not have been convened long before; yet it had not been done, nor had the governor taken any steps that he knew of to call them together. In all cases within his knowledge the government of the United States had been very careful not to interfere with the domestic troubles of the states, when they were strictly domestic and there was no collision with United States laws; and it had always been studious to avoid as much as possible collision with state-rights principles. The commentators agreed that a reference to the president by the state legislature and executive was the great guarantee of state rights. He added that he felt no disposition to interfere with Boutwell's command; but, so long as Boutwell was within the waters of Farragut's command, it became his duty to restrain him from doing anything to augment the very great excitement in the distracted community until they received instructions from the government. "All the facts of the case," he said in conclusion, "have been fully set before the government by both parties, and we must patiently await the result."¹

Boutwell answered Farragut on July 2, saying that, as he did not wish to augment the very great excitement in the distracted

¹ Ex. Doc. 1 & 2 Sess. 34 Con. S., No. 101, 17, 18, 26-29.

community by his presence, he should go to sea as soon as possible. But he thought it due to himself to say that he considered his ship, after leaving the navy yard at Mare Island, under the command of Commodore Mervine or he should have consulted Farragut in regard to the action he had taken; that he did not mean to treat Farragut with any disrespect, and that he would have consulted him at any rate if it had been convenient. He then went on in a manner and tone, which were if anything even more remarkable for a subordinate than his menacing letter to the vigilance committee, to say that it was true he had at one time concurred with Farragut in the opinion that they ought to wait for orders from Washington before taking any part in the San Francisco troubles; but that the fact of Farragut's having consented to serve on a committee to settle the controversy had induced him to believe that Farragut's opinion on the subject had undergone a change. In regard to the interference of federal officers, he said he was unable to discover any difference so far as the doctrine of state rights was concerned between the position of the commander of the navy yard at Mare Island, who consented to act as a commissioner to settle the terms of peace, and the commander of the John Adams, who wrote a letter to the vigilance committee asking that the life of an American citizen might not be taken in haste and that he might be dealt with according to the laws of his country. He said he was a state-rights man himself and therefore did not believe it any part of the creed to overturn the laws of the state; hang men without trial by jury, and imprison a judge of the supreme court. Moreover, the vigilance committee had interfered with the federal government by arresting the naval officer of the port without legal authority and in violation of the dearest rights guaranteed by the United States constitution to every American citizen. In conclusion he must state that he had been applied to by the governor of the state, Judge Terry himself, the collector of the port, the United States marshal and the distressed wife of Terry to interfere in the controversy; and what he had done had been dictated by humanity and a conscientious discharge of his duty, and he was prepared to meet the consequences.¹

¹Ex. Doc. 1 & 2 Sess. 34 Con. S., No. 101, 29, 30.

Farragut does not appear to have replied to this letter or even to have acknowledged its receipt; but the next day, July 3, he addressed a brief note to Boutwell, directing him to send an officer, who was serving on his ship, to Seattle in Washington territory and putting a peremptory and effectual veto on his going to sea, as he had declared he would, by two short sentences—"You will not sail until these arrangements are made, nor until further orders from me, as your presence may be necessary in the harbor. You will receive on board Judge D. S. Terry for his personal safety, should any arrangement be accomplished to that end."¹ Farragut in the meanwhile, instead of endeavoring to stir up strife or allowing himself to be used for that purpose, had been doing all he could to prevent it. In a letter, dated July 1 and addressed to James D. Farwell and Charles L. Case of the vigilance committee, in answer to their communication inclosing Boutwell's correspondence, he had said that he should "always be ready to pour oil on the troubled waters, rather than do aught to fan the flame of human passions or add to the chances of the horrors of civil war." In a very full official report, addressed by him on July 2 to J. C. Dobbin, United States secretary of the navy at Washington, after giving an account of what had taken place in reference to the vigilance committee from the time of the issue of Governor Johnson's proclamation, Sherman's resignation and Howard's attempt to organize the state forces in San Francisco, he said that a great effort had been made on both sides to mix up the United States officers in the controversy, but that, as he knew the tenderness with which the government touched such a subject, he had told both parties that he should do nothing without orders, as would be further seen by his accompanying letters to Commander Boutwell and Messrs. Farwell and Case. That Governor Johnson had acted unwisely from the beginning there could scarcely be a doubt; that he should not have done anything except call the legislature together or appeal to the executive of the United States was equally clear; and such action, it seemed to him, was what he ought to have taken, as he had neither arms, ammunition nor supporters. After having surrendered the prisoners,

¹ Ex. Doc. 1 & 2 Sess. 34 Con. S., No. 101, 20.

Casey and Cora, in the beginning of the outbreak, or virtually sanctioning it, and thus giving satisfactory evidence of his weakness, his proclamation should have been conciliatory and not, as it was, belligerent; and, even as it was, he should not have allowed his forces to be concentrated in the enemy's camp. Such, he added, were his humble views of the conduct of the governor and his general of militia—all of which was respectfully submitted for consideration in the hope that his course in the affair would meet with approbation.¹

¹ Ex. Doc. 1 & 2 Sess. 34 Con. S., No. 101, 15-17.

CHAPTER XIII.

VIGILANCE COMMITTEE OF 1856 (CONTINUED).

TERRY'S trial by the vigilance committee continued, after it was known that the attempt to bring about a conflict through Boutwell had failed, very much the same as it had gone on before. The principal effect that Boutwell had managed to produce was to make the committee only stricter and, for a while at least, to prevent Mrs. Terry from having the same privileges of visiting her husband that she had previously had. On Monday, June 30, the second day after Terry's letter to Boutwell asking him to interfere was written and with the secret transmission of which she must have been supposed to have had some connection, she was refused permission to see him at all, either alone or in presence of others; and the only communication allowed between them had to take place by letter. On Tuesday it was ordered that all communications from one to the other should pass through the hands of Martin J. Burke and that he should withhold from public exposure all such private matters as his judgment might dictate. Under this order a number of letters passed from one to the other, several of which were read and copies taken; and on the next Tuesday, after the reading of one from him, it was ordered that no further communication of any kind should be allowed until further written permission of the committee under seal. On the following Saturday, however, a communication from the wife was directed to be delivered to the husband without note or comment; and on the same day all the special guards, who had been kept in Terry's room, were withdrawn. Though Mrs. Terry was not admitted, a request by her about a week afterwards to admit her child was granted.¹

The number of witnesses examined in the Terry case was very

¹ Vigilance Committee Record, June 30 and July 1, 4, 5, 8, 12 and 20, 1856.

large, as well on the part of the defense as for the prosecution; and it was not until July 19, more than three weeks after the trial commenced, that the testimony closed. Once or twice in the course of it, the doctors reported that the case of Hopkins presented new and alarming features; but there had been so much talk about Hopkins' condition that the committee as well as the community became very tired and paid little attention to it. On the other hand, one of the chief controversies in the trial was the question as to whether evidence should be received as to Hopkins' bad character. It was at first, and early in the trial, determined that the witnesses should not be permitted to testify for or against his character; and a motion for reconsideration was voted down; but Truett, Terry's counsel, who was very active and efficient in his defense, protested that there was not a quorum present when the vote was taken; and subsequently the rule was modified so as to allow Hopkins' general reputation for veracity to be impeached—with the result that his character had to suffer. On July 21, after the testimony was all in, upon rumors of the issue of a writ of habeas corpus for Terry, arrangements were made to secrete him; but the rumors proved erroneous and the trial proceeded to a close. On Tuesday, July 22, Terry pleaded his own case and Smiley that of the prosecution. A few members of the executive committee were excused from voting for the reason that they had not heard the testimony; and then an additional oath was taken not to divulge the votes about to be given. On motion of James Dows it was resolved that a vote of two-thirds should be required to convict; but this was afterwards modified so as to require only three-fifths. And on a vote being taken Terry was found guilty on the first charge of resisting by violence the officers of the committee while in the discharge of their duty and guilty of an attack upon the citizen of San Francisco named Purdy. He was found not guilty of an attack upon the citizen of Stockton named Evans. The charges of an attack upon a citizen of Stockton named Broadhouse and of an attack upon another named King and of resistance to a writ of habeas corpus had previously all been stricken out.¹

There was considerable difficulty over the second charge against

¹ Vigilance Committee Record, July 3, 4, 11, 16, 21, 22, 1856.

Terry or, in other words, the charge of an assault with a deadly weapon with intent to kill Hopkins. The session at which the other charges were disposed of lasted all the night commencing on the evening of Tuesday, July 22—nine consecutive hours. The committee then adjourned and met again on Wednesday evening, when, after another long siege, a verdict was finally arrived at of "guilty of assault" on Hopkins. Upon the rendition of this verdict, it was ordered that as soon as Terry should place in the hands of the secretary all the papers appertaining to the trial, Mrs. Terry should be admitted to see him; and the next day, upon his giving up the papers, they were placed under seal and filed away for safe keeping. On Thursday evening Smiley, Truett and Gillespie, who had been appointed a committee on the subject, reported as an appropriate sentence, that as David S. Terry had been convicted after a full, fair and impartial trial of certain charges before the committee of vigilance, and as the usual punishments in their power to inflict were not applicable in the case: therefore it should be declared the decision of the committee that he should be discharged from custody; that in the opinion of the committee the interests of the state imperatively demanded that he should resign his position as judge of the supreme court, and that the sentence should be read to him and he should be forthwith discharged from custody on its ratification by the board of delegates.¹

On Friday morning the board of delegates was called together; and there were a hundred members present. The object was known to be to pass upon the Terry case; and, as the prisoner was recognized as one of the principal enemies the committee had had and for that matter still had, feeling ran high and the attendance was very full. So far as Hopkins was concerned, he had at length been declared by the doctors out of danger; and he had given his testimony in the case; but, as the feeling against Terry had not at any time been on Hopkins' personal account, his recovery made little difference in its intensity; and it may perhaps be said that some felt disappointed because events had not turned out so as to subject Terry to severe, if not the severest punishment. Such being known to be the temper of at least a

¹ Vigilance Committee Record, July 23 and 24, 1856.

portion of the delegates and a stormy time being anticipated, it was ordered that the doors should be closed immediately after roll-call; that no member should afterwards be admitted, and that, until the Terry matter was disposed of, no motion except for recess should be considered in order. Coleman, Brittan, Farwell, Smiley, Dempster and Ward were present as representatives of the executive committee. Smiley thereupon read to the delegates the voluminous testimony that had been presented by the prosecution, and Ward that presented by the defense. The reading of the testimony, including indictment, verdict and proposed sentence, continued until nine o'clock in the evening, when Philip W. Shepheard moved that the board of delegates should concur in the verdict; but his motion was at once voted down. It was then moved and carried that a vote should be taken on each separate charge of the indictment and the verdict upon it; and after discussion the verdict of guilty on the first charge was confirmed by ninety-five ayes to two noes. In respect to the verdict on the second charge, all after the word "guilty" was ordered stricken out, and the verdict made to read unqualifiedly guilty, by eighty-eight ayes to eight noes. The action of the executive committee in reference to the other charges was substantially concurred in; and then, at half past twelve at night, the further consideration of the subject was postponed until Saturday afternoon. It was then, on account of other important matters supervening, again postponed; and, as a matter of fact, it was not finally disposed of for nearly two weeks more, or until early on the morning of August 7, when the business of the committee was nearly ended and they were about to disband.¹

After the postponement of July 25, the question as to what should be done with Terry did not come up again until Thursday evening, July 31. It was then moved and carried by the board of delegates that, if the executive committee would concur, Terry should be banished from the state at the shortest possible notice and under the usual penalty. The matter was accordingly referred back to the executive committee for their action, with a request, if they did not concur, that they should meet the board of delegates in joint convention. The executive committee, how-

¹ Vigilance Committee Record, July 25 and August 7, 1856.

ever, seemed averse to taking any action and laid the subject on the table. On the afternoon of August 5, Hopkins made his appearance before them and solicited the privilege of an interview with Terry, intimating a desire to arrange the whole difficulty, as he expressed it, by a money compromise; but this project was promptly nipped in the bud; and on the evening of the same day there was another meeting of the board of delegates, at which various members of the executive committee were present and on invitation gave their views in reference to the Terry controversy. After they had been heard, it was moved to reconsider the former action; but the motion was lost by thirty-nine noes to thirty-six ayes. But the next morning, at another meeting, it was moved that as the executive committee had failed to concur with the board of delegates, the board of delegates should concur with the executive committee in the sentence of Terry; and the motion was carried by forty-four ayes to thirty-six noes.¹

As the original verdict and sentence against Terry provided that he should be discharged from custody upon the concurrence of the board of delegates, and as this concurrence was now expressed, and particularly as it was well known that there was no fear of Terry's making further trouble if discharged, and the wiser heads of the committee were very anxious to get rid of him, a meeting of the executive committee was hastily called on the early morning of Thursday, August 7, after the late adjournment of the board of delegates. There were only eleven members present, when Terry was brought before the body; and, after his sentence was read to him, at a quarter past two o'clock, he was discharged. He went first to the house of Duncan W. Perley, where his wife was, and from there to the sloop-of-war John Adams, which in accordance with Farragut's peremptory order to Boutwell had been lying for a month past in the harbor of San Francisco, ready to take Terry on board. He was careful to get on board before daylight; and the same afternoon, when the river steamer from San Francisco passed near the John Adams, he was transferred to it and left for Sacramento, where for a long time afterwards he remained perfectly quiet and manifested no disposition to provoke further difficulty. When the

¹ Vigilance Committee Record, July 31 and August 1 and 5, 1856.

transfer was made, Boutwell manned the yards of his vessel and ordered his men to cheer; and their volleys of hurrahs took the place of the volleys of fire with which he had talked of battering down the city.¹

In the vigilance committee, after Terry's midnight discharge, so to term it, there was great dissatisfaction. Not only a very large proportion of the rank and file denounced it; but many of the executive committee were bitter when they heard of it. At a meeting of that body, held at eleven o'clock on Thursday morning, when there were twenty-three members present, E. B. Goddard asked for an explanation of the action that had been taken; and in response thereto and to the known dissatisfaction that existed it was resolved that any member of the executive committee or of the board of delegates should be at liberty to explain his vote for or against the release of Terry and his reasons therefor, but not to divulge the vote of any other member of either body; and it was also ordered that the resolution in so far as it removed the seal of secrecy from members of the executive committee should be conspicuously posted. At an evening session on the same day, several of the most bitter members claimed the right to protest and to have their protests recorded; and, after some question and a long debate and a decision by the chair, which was appealed from and sustained in favor of the right, Burke, Jessup, Case and Manrow joined in and had entered in the record a protest "against the action of the eleven members, who at an irregular hour in the morning and without, in our opinion, a sufficient reason for the haste exhibited, released Judge David S. Terry." But by degrees the dissatisfaction and bitterness, which were felt, died out; and in the end, after studying over the record of the testimony and trial, which were published by order of the committee, there were few or none, whose views were of any moment, who did not concur in opinion that the discharge was well advised and that the whole Terry business had turned out very fortunately.

Next in order before the executive committee, after the trial of Terry, was that of Philander Brace. This individual had been

¹ Vigilance Committee Record, August 6 and 7, 1856; Bulletin of August 8, 1856.

arrested even before the stabbing of Hopkins and the seizure of Terry; and his trial had been postponed only on account of the more absorbing interest taken, and the more immediate necessity felt, in disposing of the Terry case. Brace was a young man, said to be a native of New York, not much over twenty-one years of age, large and stout of frame, intelligent and comparatively well educated, but versed in all sorts of crime. He was charged with various offenses, among which were the murder on June 3, 1855, of Joseph B. West, a deputy police officer, usually known as Captain West, at a house on the San Miguel rancho in San Francisco county and divers assaults with deadly weapons, besides burglaries and robberies. He had managed in various ways to escape punishment for his serious crimes; but on May 8, 1856, was sentenced to imprisonment for thirty days in the county jail for petty larceny and was serving out that sentence when the vigilance committee started. On June 3, in view of the speedy expiration of his term of sentence, the vigilance police was directed to take such steps as might be necessary; and it appears that, though they did not act immediately, they kept their eyes upon him. On June 13, on motion of Jules David, it was resolved that there was sufficient circumstantial evidence to prove that Brace had been concerned in the murder of West and that, as he was known in the community to be a dangerous character, he should be immediately arrested and sent out of the state. But immediately afterwards, as if to prevent the possibility of too hasty action, it was, on motion of Dempster, resolved that no vote awarding banishment or any other punishment against any criminal should be valid until after the committee on evidence should have reported the name and crime with which he was charged.¹

It seems that about the time the above-mentioned resolutions were adopted, Brace concealed himself and for some days could not be found; but the next week, his whereabouts being ascertained, he was captured. By that time more was known about him; and on the morning of June 21 it was determined that, when tried, it should be for murder and that the same rules of trial should be observed as had governed in the cases of Casey

¹ Vigilance Committee Record, June 3, 7 and 13, 1856.

and Cora. On the afternoon of the same day occurred the Terry assault; and, as has been already stated, the Brace trial then went over. Three or four days afterwards, it was resolved that it should be taken up immediately after the conclusion of the Terry trial; and at the same time Samuel T. Thompson was appointed prosecuting attorney in the case and Henry M. Hale counsel for the defense. On July 17, in a sort of lull of the Terry trial though it was not concluded, the Brace case was called up and an indictment presented in which the prisoner was charged—first, with an assault with a deadly weapon upon and attempted robbery of William Southwick at his house on the corner of Folsom and Fifth streets in February or March, 1855; second, with an assault with a deadly weapon upon and wounding of and attempt to rob H. C. M. Scharff at his house on the Presidio road on March 4, 1855; third, with aiding, assisting and abetting other parties unknown to commit the offenses above mentioned; and, fourth, with the murder in connection with one Marion of Joseph B. West as already stated. Upon these charges Brace was immediately arraigned; and to all of them he pleaded not guilty; but at the same time he admitted that he was present when Southwick was assaulted, though denying that he had used a pistol as charged. The trial then commenced with the examination of one witness and was then postponed until the Terry case should be finished. On July 19 Thompson, who had been prosecuting attorney in the case, resigned from the executive committee and David appears to have been appointed prosecutor in his place, but afterwards, on July 27, David was excused and Dempster appointed.¹

On Sunday, July 27, after the trial of Terry before the executive committee had been concluded, the Brace case was again taken up and a number of witnesses examined; and on the next day a verdict was rendered of guilty on the first charge, not guilty on the second, and guilty as accessory on the fourth. The third charge was withdrawn. On the evening of the same day he was sentenced to suffer the penalty of death at such time as might be decided upon by the executive committee; and later

¹ Vigilance Committee Record, June 19, 21, 24 and 25 and July 17, 19, 20 and 27, 1856.

on the same evening the verdict and sentence were concurred in and confirmed by the board of delegates, which further recommended that the execution should take place on the next afternoon between three and six o'clock. At the meeting of the delegates Brace was called before the board and asked by Coleman if he had anything to say why the sentence of death should not be passed upon him; and he answered that he had nothing to say except that he was innocent. The sentence was then read to him to the effect that, having been found guilty of the crime of aiding and abetting the murder of West, he should be hanged by the neck until dead and that the sentence should be carried into execution about four o'clock in the afternoon of the same day—it then being past midnight. Upon hearing the sentence Brace asked, "Is that all?" and, upon being answered in the affirmative, he replied, "Then I am ready."¹

In the meantime, on the afternoon of Thursday, July 24, the day after Terry was found guilty of assault upon Hopkins and while the excitement as well outside as inside of the vigilance committee may be said to have been at its highest notch, a man named Joseph Hetherington shot down and killed Dr. Andrew Randall in the office of the St. Nicholas Hotel on the southwest corner of Sansome and Commercial streets. Hetherington appears to have been of English birth, aged about thirty-five years, unmarried, and had come to California in 1849 or 1850. He had lived in St. Louis and New Orleans, was said to be more or less of a sporting character, and had accumulated considerable wealth. On August 1, 1853, he had had a dispute with Dr. John Baldwin about a lot of ground on Greenwich street; and, upon going to the place and finding Baldwin in possession and putting up a fence, he had shot him down and killed him. He had been tried for that murder; but, like every other man-slayer that had money in those days, he had been acquitted. Afterwards he became a creditor to a considerable amount of Dr. Randall, a native of Rhode Island about thirty-seven years of age, who had large landed interests in Marin county; and, as Randall could not or would not pay immediately, Hetherington undertook to force payment by hounding him on every occasion with insults

¹ Vigilance Committee Record, July 27 and 28, 1856.

and threats to shoot. On the day in question, about half past three o'clock in the afternoon, Randall went into the office of the St. Nicholas Hotel and was followed by Hetherington. Randall stepped up to the hotel counter, placed his name upon the register and was looking over some letters, which the clerk had handed him, when Hetherington stepped up, seized Randall by the beard, which was exceedingly full and long, and violently jerked him five or six feet from where he had been standing, at the same time exclaiming, "Damn you, I've got you now" or something to that effect. As he did so Randall, who was said to have armed himself because he was afraid of an attack at any time, drew his pistol; but apparently at the same instant Hetherington also drew; and both fired. There were a number of persons sitting or standing in the room, who immediately sought safety from random shots; but, before they could get far, each party made a second shot. As it happened, however, neither took effect either on the adversary or anybody else. By this time Randall had got around the end of the counter and was crouching behind it, by the side of the frightened clerk, when Hetherington ran up in front, reached over the counter with his pistol, and shot Randall in the left temple.¹

The wound thus inflicted was a mortal one and rendered Randall unconscious, in which condition he continued until his death on Saturday morning, July 26. Meanwhile Hetherington had been seized by Captain Isaiah W. Lees of the city police and was being taken to the City Hall, when a party of vigilants came up, took him away from his captor and conducted him to vigilance head-quarters. It might almost have been supposed that the man was insane to commit such an act at such a time and under such circumstances; but with the exception of his violent temper he was perfectly cool and made no pretense of irresponsibility. On Saturday morning, after Randall's death, he was allowed to have an interview with Fletcher M. Haight, his attorney; and on the evening of the same day he was arraigned before the executive committee for trial. David read an indictment, charging him with the murder of Randall, to which he pleaded not guilty—adding that he shot Randall, but

¹ Bulletin of July 25, 26 and 28, 1856.

that his own life was in danger and he shot to save it. Smiley appeared as counsel for the defense. A large number of witnesses were called on each side; and the trial lasted over into Sunday and all of Sunday until half past five o'clock in the afternoon, when after speeches by counsel a verdict of guilty was rendered against him; and he was sentenced to death by hanging at such time as should be determined by the executive committee. Two hours afterwards the board of delegates met and approved the verdict and sentence; and on Monday morning Hetherington was informed of it. At the meeting of the delegates on Monday evening and night, at which the verdict and sentence against Brace were approved and his execution fixed for Tuesday afternoon, the order included Hetherington also; and after Brace had been brought before the board and asked why the sentence of death should not be passed upon him, as above related, Hetherington was likewise called up and asked a similar question. He answered that he did not know that he had anything to say at that time; but he desired to know whether he would have the privilege of seeing his attorney. Coleman asked if he did not wish to see a minister; and he replied that he did wish to see a minister, but he would "rather see Mr. H. H. Haight, first thing."¹

On Tuesday, July 29, in the morning, in accordance with the report of a committee appointed for the purpose, it was determined that the execution of Hetherington and Brace should take place on a scaffold to be erected on Davis street, between Sacramento and Commercial; and in the afternoon a raised platform, eight feet square and ten feet high with a trap-door in the center and a cross-beam seven and a half feet overhead the trap-door, was erected in the middle of the street. As soon as the work commenced crowds began to assemble, and in an hour or two the entire locality and every house-top and window in sight for blocks around were black with people. The number was so great that several roofs gave way and fell under the accumulated weight; but fortunately no one was very seriously injured. Previous to these preparations and as they were going forward,

¹ Bulletin of July 25, 26 and 28, 1856; Vigilance Committee Record, July 26, 27 and 28, 1856.

the condemned men were closeted with ministers, while all the military of the vigilance committee, which had been ordered to turn out, said to be between four and five thousand men, filled the neighboring streets; and a dense square of soldiers, four or five deep, surrounded the scaffold. There were also armed men on the house-tops of the vigilance committee building and various others near by. As soon as the soldiers were all in place and everything in readiness, a procession, consisting of the executive committee, a company of guards composed of delegates from each company of the committee and carriages containing the condemned, approached; and way was made for it. The executive committee took their position to the north of the scaffold and the guards around it. As the first carriage drove up to the wooden stairway leading to the platform on the east side, Brace got out and ascended. He was dressed in a black coat, dark vest, light check cassimere pantaloons and Panama hat. He was pale and evidently strongly excited but apparently steady and master of himself. His arms were pinioned behind at the elbows; and he walked up the steps with his hands in his pantalon pockets. He was placed on the side of the platform towards Sacramento street, directly under one of the hempen ropes with nooses at their ends that dangled from the cross-beam overhead. When the second carriage drove up Hetherington got out and likewise ascended the steps. He was thinner and taller than Brace, had a sun-brown face with black whiskers, was dressed in black and wore a straw hat. His arms were also pinioned at the elbows behind. His countenance wore a serious expression, but without the strain and effort under which Brace seemed to be laboring. Upon reaching the platform, he was placed to the right of Brace and under the other rope.¹

When the condemned ascended the platform, several other persons went up with them, one of whom, a man named Robert Nixon, dressed in a long, ugly, black muslin robe and cap, played the part of hangman's attendant. The mummery of Nixon's dress was perhaps the strangest and most absurd circumstance connected with the vigilance committee from first to last. If it was intended to conceal Nixon's identity, it did not

¹ Bulletin of July 30, 1856.

accomplish the purpose, for the reason that he pushed the cap back so as to fully expose his face; and everybody that saw and was acquainted with him recognized his by no means attractive features. If it was intended to render the execution more impressive, it was entirely out of character with everything else that the committee had done, was in the very worst of taste and was calculated, in so far as was possible on so serious and solemn an occasion, to render the scene ridiculous. The likelihood is that Nixon was himself responsible for the masquerading costume and that it was too late, when he made his appearance in it, to send him back to change it. However this may have been and whatever may have been the purpose, the ill-looking figure in black, as soon as the men were in position under the cross-beam, stepped up and strapped the legs of each of them together below the knees. Then rising, he took off Brace's neckerchief, opened his collar and placed the noose of the nearest rope around his neck. As he did so, Hetherington undid his own neck-cloth and unbuttoned his collar, whereupon Nixon threw the other noose over his head and was drawing it together, when Hetherington in a low voice told him not to draw it too tight as he wanted to speak. As soon as the ropes were adjusted, the man in black stepped back and busied himself with the white caps, which he drew forth and made ready.

Brace, as the noose was placed around his neck, looked with an expression of ineffable scorn at Nixon, but said nothing. When Nixon stepped back, he then turned to Hetherington and, extending his pinioned arm as well as he could, shook hands with him. Hetherington next shook hands with several other persons standing near and then, addressing those in front of him, said: "Gentlemen, you may think me a hardened sinner; but I appear before you mild, unconcerned and pleased. I know that in a few minutes I must meet my Maker. To the best of my knowledge, I have not lived one day that I was not ready to meet my Maker that night. Do not think I am boasting. Such is not the case. The Rev. Bishop Kip has been with me all day —or nearly all day." At this point he turned to the reporters for the newspapers, who were standing taking notes just in front of the platform, and asked, "Have you got that all down?"

As he did so, Brace suddenly cried out, "Oh, go on. Say what you've got to say. Here am I, Brace, murdered by the vigilance committee—so and so, like a dog." Hetherington continued, "I am not more penitent to-day than I have ever been"—when Brace, again interrupting, cried, "Go on, old fellow." Hetherington, somewhat disconcerted but evidently referring to Bishop Kip, proceeded, "Our conversation turned upon religion"—when Brace exclaimed with an oath, "Go on. If I could, I would kick you off there. Here I am"—again comparing himself to a dog. Hetherington a second time attempted to proceed, when Brace again with an oath cried out, "Oh, go on. Don't palaver. I don't want to be here, to be stared at."

At this interruption, Hetherington, turning towards the executive committee, remarked, "If the gentlemen, in whose hands I am, wish it, I will stop." But upon being told to go on, he continued, "I have not disobeyed any of the rules since I was put in that house and I should not like to do it now. If you say go on, I will go on." At this Brace exclaimed: "Gentlemen, I'm drunk. I am all right. Go on—I am going to talk at the same time. Gentlemen, I hope you will glut your murderous eyes in looking upon my death struggle. I will not be still. Go on and speak like a man." Hetherington here asked, "Where was I? where did I leave off?" and, upon some one suggesting "Bishop Kip," Brace interrupted with a curse. Hetherington then said, "In the difficulty I had with Dr. Baldwin, I had to shoot him in self-defense"—when Brace again broke in, "Gentlemen, I want you all to understand that I, Brace, am murdered by the vigilance committee on the twenty-ninth day of July, eighteen hundred and fifty-six. Is not that clearly and distinctly spoken?" By this time Brace had become so noisy and unruly that an attempt was made to muzzle him by placing a handkerchief over his mouth. Hetherington continued: "In the shooting of Dr. Randall, I turned to talk with Mr. McCorkle, when Randall drew his pistol. I merely wanted to save my own life. I have lived all my life a gentleman, though I am about to end my career on the gallows. I defy the whole world to prove a dishonorable act upon me. The press has abused me without good reason." Brace through his muzzle, with another oath, cried

to him to go on. Hetherington proceeded, "I forgive every man living, as I expect my Redeemer to forgive me." Brace: "Go on, old hoss." Hetherington again: "There are few men that have lived the life I have—high, pure and moral. As to how I have been treated I will say that Mr. Gillespie insulted me very much. But I freely forgive him. I think that T. J. L. Smiley was friendly towards me." Brace, with another oath: "Oh, dry up. What's the use of talking? I will roll myself up in the American flag and die like a thieving _____" —again comparing himself to a dog. Hetherington: "I have not had a fair trial. No jury would have convicted me. I hope the Lord may have mercy upon my soul. I ask every man living to forgive me. I am here a spectacle to you all. I have prayed from the days of my youth."

A signal being then given, the white caps were drawn over the heads of the condemned men. While this was being done, Hetherington said, "May the Lord have mercy upon me. God bless you all. I should like to have seen Mr. Fletcher Haight; but it was denied me. Remember me to Fletcher Haight and to Mr. Henry Haight. Lord have mercy"— At the same time Brace was saying that his last request was that Terry should be hung on one side, Hetherington on the other and himself in the middle like the Savior between two thieves! At that instant, it being then ten minutes of six o'clock, the bell on the roof of the vigilance building was tapped, at which a man underneath the platform with a chisel and mallet cut the rope that held up the trap-door. As it fell and was drawn back by a weight, Hetherington and Brace dropped about six feet. As the ropes tightened with a snap, Brace's head fell forwards; and he did not move. Hetherington's head fell backwards; he drew up his legs once or twice; but all was soon over. After hanging forty minutes, the bodies were cut down, carried to the committee building and that evening handed over to the coroner.¹

After the execution of these men, strange products as they were of the condition of affairs, and particularly after the release of Terry in the following week and the dying out of the dissatisfaction occasioned by his discharge, as has been already related,

¹ Bulletin of July 30, 1856; Vigilance Committee Record, July 29, 1856.

there was little more of absorbing interest to attract the attention of the vigilance committee or to keep up the excitement of the community in regard to it. The black list was still receiving consideration; but the hunting out and expulsion of bad characters had become so common that it was considered, so to speak, a matter of course. Up to July 5 two men had been executed; one committed suicide; eleven had been shipped out of the state, and four fled into the interior. On July 5 six more men, T. Cunningham, James Reuben Maloney, Alexander H. Purple, Daniel Aldrich, Lewis Mahoney and Thomas Mulloy, who had each been convicted by the committee of various offenses against the peace and good order of the state, were placed on the Pacific mail steamer John L. Stephens, bound for Panama, and sent away under the usual penalty. On the same day Michael Brannagan, Christopher Lilly, John S. Musgrove, James Burke alias Activity, John Cooney and Patrick J. Hickey, whose names had been placed on the black list, were ordered to be arrested; and in the course of a few days they were brought in, as were also William F. McLean, the second time, and Abram Kraft. Brannagan, soon after his arrest, was released from custody on presenting a letter begging to waive a trial upon the several charges that had been presented against him; asking as a favor to be permitted to leave the state on the Pacific mail steamer Sonora, which was to sail for Panama on August 5; binding himself in such case never to return to California, and at the same time depositing five hundred dollars with the committee as security that he would leave as agreed—which he subsequently did. John Cooney left on the same vessel. Lilly, after his arrest, was in like manner released upon pledging himself to leave the state on the sailing of the next Nicaragua steamer and furnishing a bond in the sum of five thousand dollars, signed by Patrick Hunt, E. T. Pease and William B. Little, that he would comply with the agreement; but it appears that afterwards on August 3, upon further investigation by the committee, his name was stricken from the black list. On July 21, William F. McLean, who asked to be allowed to leave, together with James Burke alias Activity, Abram Kraft and James White, who had been convicted like the other exiles,

were shipped on the Pacific mail steamer *Golden Age*, bound for Panama.¹

The proceedings of the committee against Thomas Maguire, the theatrical manager, formerly proprietor of the Jenny Lind theater, resembled in some respects those against Lilly. His name had been placed upon the black list on June 9 and he had been ordered to leave the state on the mail steamer of July 5, as has been already stated; and the order was repeated on June 25; but on June 30 his time for leaving was extended to July 20, and on July 7 the sentence was indefinitely postponed. Afterwards on August 13, when the committee were preparing for final adjournment, a new order of banishment was issued; but the next day it was revoked and an order made that he should be allowed to remain in California upon his written parole to thenceforward act the part of a good citizen.² Sentences of banishment against Jacob Ritchie and Patrick J. Hickey were also, on further investigation, reconsidered and quashed. Ritchie had been ordered to leave as early as June 2. Afterwards, on July 14, he was arrested and again ordered to leave; and on August 11, on his written pledge to do so on the steamer of August 20, he was released from custody; but on August 13 his case was reconsidered and on August 19 he was discharged with a reprimand. Hickey had been arrested on July 21; but was released from custody on the same evening upon giving bail for his appearance when called for in the sum of a thousand dollars. On August 2 the usual sentence to leave the state was passed upon him; and it was repeated on August 16; but on September 1 his time to leave was extended; and on September 11, after further hearing, the sentence was revoked and he was ordered to be discharged with a written reprimand. Charles Gallagher, on August 1, was ordered to leave by the next steamer; but the sentence was subsequently on the same day suspended; and afterwards, on August 9, it was reconsidered and the accused, upon making pledges of future good conduct, was acquitted.³

¹Vigilance Committee Record, July 5 to August 5, 1856; Bulletin of October 6, 1856.

²Vigilance Committee Record, June 25 and 30, July 7 and August 13 and 14, 1856.

³Vigilance Committee Record of days named.

John W. Bagley, against whom the committee had on May 25 issued an order of arrest and on June 6 passed a sentence of banishment, had managed, by concealing himself or fleeing like James Cusick, James Hennessey and James Thompson alias Liverpool Jack into the interior of the state, to elude capture. Various reports came in from time to time concerning the whereabouts of these individuals, as well as of John S. Musgrove who was also wanted; but they all succeeded in keeping well out of the way. On August 15, Bagley, who had ventured to send a communication, was notified that he would be executed if he should be caught in San Francisco, unless he came for the purpose of leaving the state; and on August 18 a notice was ordered published in the newspapers that Cusick, Hennessey and Thompson might return to San Francisco, if they would leave on the steamer of September 5; but that, if they failed to avail themselves of the privilege, they would by any future efforts to return incur the penalty of death; and a similar notice was published in reference to Musgrove. But the only one that availed himself of the privilege was Liverpool Jack, who returned on August 25 and asked to be sent to China. A man, named John Stephens, who had committed an aggravated assault upon Edward D. Jones, a member of the committee, was the last person banished; and he and Liverpool Jack left on the Pacific mail steamer *Golden Age*, which sailed on September 5 for Panama.¹

In addition to the persons already mentioned as having received attention from the vigilance committee, it may be subjoined that on the evening of Saturday, July 19, George F. James, James W. Stillman, David Scannell and David C. Broderick were ordered to be arrested; but later the same evening it was resolved that no action should be taken until the next morning and not then without further order; and no further order was made. In the meanwhile a family by the name of Green, who had made themselves obnoxious as land squatters and who were reported to have surreptitiously obtained possession of valuable old Spanish papers relating to the claim of San Francisco to pueblo lands, were ordered to be arrested and their premises searched. On

¹ Vigilance Committee Record of days named; Bulletin of October 6, 1856.

Monday, July 14, four brothers of the family, named Alfred A. Green, Daniel Green, Henry Green and John L. Green, were brought in; and the same day a package of papers, supposed to relate to the pueblo title, was produced from the residence of Alfred. The latter made a statement in reference to the manner in which he obtained the papers; but his statement appears to have been denied by a Mexican, named Tiburcio Vasquez, from whom he had got them and, as Vasquez claimed, on a forged order. Subsequently several other members of the family, named Benjamin Green, George Green and Robert Green, were also arrested; but in the course of a day or two afterwards the whole batch, except Alfred A. Green, were released on their parole to be forthcoming when called for. Alfred proved to be what was called "a tough customer." By some means, hard to understand, he seems to have made certain lawyers believe that his papers were valuable; and, on their representations and by pretending that it was within the possibilities that he might negotiate with the Limantour, Bolton and Barron and other fraudulent land claims adverse to the pueblo title, he induced the committee to negotiate with him for their purchase; and at the same time he even came near getting from them, as a condition precedent, the possession of the suspicious order for the papers, which they had received from Tiburcio Vasquez, on the plea that it was of no use to them but might be of value to him.¹

The question, as to whether there had ever been a pueblo at San Francisco or not, was an intricate legal one, which the vigilance committee was not competent to pass upon; and it seems that none of the lawyers, who acted as its advisers in the matter, were in any better condition. As a matter of fact, notwithstanding the decisions of the courts to the contrary, there seems never to have been a pueblo, in any proper sense of the term, at San Francisco; and the Green papers did not and could not prove one. But as Green had succeeded in making the committee believe his papers valuable, it agreed to give him twelve thousand five hundred dollars for them. After this agreement, however, he refused to give the papers up, as he had proposed, until after his brothers, who were still held on their parole,

¹ Vigilance Committee Record, July 14, 15, 19, 26, 28 and 30, 1856.

should be tried and their cases disposed of. It was thereupon resolved that a jury of seven should be chosen to try the case of the brothers; but this jury was afterwards discharged and the trial continued before the executive committee, which on August 10 acquitted and released from their parole all the family, except Alfred, on the ground that the charges against them had not been substantiated by the testimony adduced. By that time it had learned enough to gauge Alfred and the score was bad; but he had unfortunately already received his money, which was collected from property holders, and the comparatively worthless papers were turned over to the United States district court. Alfred himself was afterwards released by the committee as a man who could not well be punished any more than he had been, and as one who by that time was too well known to be any longer very dangerous to the community.¹

Two of the exiles, who were banished by the committee, returned while it was still at work. The first was Edward Bulger, who had been shipped on the bark Yankee for the Hawaiian Islands on June 5. He came back on the return trip of the same vessel on July 24. Upon his arrival he was immediately arrested by the committee and taken to head-quarters. On the same evening he was arraigned and asked by President Coleman whether he was not aware that he had incurred the penalty of death by coming back. He answered that he had never heard or been notified that he was banished under penalty of death. The committee thereupon resolved to inquire into the facts, at the same time giving him to understand that his fate would depend very much upon the truth or falsity of his statement. The next day, accordingly, he was tried for violating the decree of the committee and willful defiance of its sentence, to all which he pleaded not guilty. A number of witnesses were examined and Bulger himself was allowed to make a statement; and the result was proof that, in the haste and confusion of sending him off, the sentence had not been read to him, and as a consequence there was a verdict of not guilty. The committee thereupon again ordered him to leave the state in fulfilment of its former

¹ Vigilance Committee Record, July 31, August 3, 10 and 29, September 26, October 10 and 14, 1856, and July 24 and August 7, 1857.

sentence, never to return under penalty of death; and they were careful on this occasion to see that he was fully informed of the sentence. He was shipped in this second instance on the Pacific mail steamer Sonora, which left for Panama on August 5; and, as may well be understood, he was afterwards, on his own account, quite as careful not to return again as the committee had been to notify him of the consequences. Martin Gallagher, the second man who returned, had been sent off with Edward Bulger on the same bark Yankee to the Hawaiian Islands. He returned on the brig Glencoe, by the way of Puget Sound, on October 7. The captain of the Glencoe, on being called upon for his testimony, stated that he did not know Martin Gallagher; but that he had brought a man called Wilson from the Hawaiian Islands, who had been placed on board by the United States consul of that country; and that after arrival in the harbor of San Francisco the man had left the vessel in a small boat. As a matter of fact the man called Wilson was Gallagher. He had probably expected no committee in existence and no danger in returning; but, finding himself very much mistaken in these respects, he had sedulously concealed himself for a week or two and then secretly availed himself of an opportunity to take passage on the ship John Stuart, bound for Callao in South America. He thus saved himself and the committee a great deal of trouble.¹

Meanwhile care had been taken by citizens, nearly all of whom sympathized with and some of whom were members of the vigilance committee, to provide for the widow and orphan children of James King of William. The first move in this direction was a notice, which appeared in the San Francisco newspapers upon the day of King's funeral, calling upon the people of the state to contribute a fund, to be known as the "King Testimonial" and used for the purpose indicated. The notice was signed by Frederick W. Macondray and six other prominent citizens, who stated their object to be not so much to solicit subscriptions as to bring to the notice of the community the debt due from it to the patriot martyr, James King of William. It went on to say that subscriptions would be opened at various places in the city

¹Vigilance Committee Record, June 5, July 24 and 25 and October 7, 1856; Bulletin of October 11 and 18, 1856.

and throughout the state and that the moneys contributed would be used in rearing a monument to the deceased and providing for those he left behind him. In accordance with the notice, books were opened and within a few months large sums collected, amounting in all to nearly thirty-six thousand dollars, of which about two-thirds came from San Francisco and the remainder from other portions of the state. Subsequently the fund was turned over to Frederick W. Macondray, John Sime and Thomas S. King as trustees for investment and administration; and, under their management, besides erecting an imposing monument in Lone Mountain cemetery and supporting the family, it accumulated until it amounted to something like forty thousand dollars. About 1868 nearly one-half of the fund was divided amongst the elder children, leaving about twenty-two thousand dollars on deposit in the banking house of John Sime & Co., where it remained at the time of the death of Sime in October, 1871. The failure of the banking house, soon after Sime's death, together with an adverse decision by the courts in an attempt to impress upon the fund the character of a special deposit induced the trustees to sell out their claims against Sime & Co., at seventy cents on the dollar, to Michael Reese. The result of the operation was a loss to the fund of nearly seven thousand dollars, for the reason that the supposed bankrupt firm of Sime & Co., on account of a rise in the mining stocks held by it, turned out to be solvent; and Reese, who doubtless thoroughly understood the business when he invested, collected the claims in full.¹

¹San Francisco newspapers of May 22, 1856; Records in bankruptcy proceedings of John Sime & Co.; Statement of Charles J. King.

CHAPTER XIV.

VIGILANCE COMMITTEE OF 1856 (CONTINUED).

THOUGH there can be no manner of doubt that the vigilance committee of 1856, taken as a whole, was one of the purest and best intentioned bodies of men ever assembled in San Francisco, and that the city owed more to it than to any other organization, yet there were bad men in it. Some instances have already been noticed of its efforts to purge itself of its dross. Some of its members were essentially bad and some had only become unfit, on account of want of prudence or temper, to be intrusted with power or authority over the persons or property of others. Charges of different kinds were preferred against various members, some for dishonesty, some for unreliability and others for violation of their pledges. But in all cases, so far as can be seen, there was a disposition to be just; and no hesitation was shown in haling any member up for trial in case of accusation. Several of the members of the executive committee, upon hearing of charges against themselves, asked for investigation; and, as a rule, it was found there was nothing in the accusations. One member of the executive committee, named Henry J. Labatt, was notified on June 8 that he had not devoted such attention to the business of the committee as was deemed necessary and proper in a member; and he was requested to resign. He gave some explanation of his remissness on June 10 and was excused, but on June 14 his resignation was presented and accepted. On June 30 William T. Reynolds was invited to resign on account of protracted absence; and on July 19 he was asked to resign unconditionally; and soon afterwards his name was dropped from the roll. Another member of the executive committee, named Leopold Bossange, was on July 26 called up for alleged bad faith in disclosing secret proceedings of the body; but, as it

appeared that he had divulged nothing important and that he had acted rather incautiously than intentionally wrong, he was simply ordered to be censured. Aaron M. Burns, another member of the executive committee, was on October 25 declared to have committed a breach of duty in talking too much and exposing matters which he was pledged to keep sacredly secret.¹

Among the board of delegates was one Augustus M. Heslep, against whom various charges were made. They appear to have been pending a couple of months,—longer doubtless than they deserved,—and, on August 15, they were dismissed and word ordered to be sent him to that effect. Subsequently, on September 16, a package of papers, which had been submitted by a lady—known as Mrs. Heslep, were returned to her with a polite communication that the committee could not—really could not—consider them any further. On July 17 William Rabe, another member of the board of delegates, was suspended by the executive committee for attempting to introduce politics into the committee and making threats; and afterwards, on July 25, his case having been referred to the board of delegates, the suspension was by that body made permanent. On August 2, William E. B. Andrews, who had been appointed director of police, officially and apparently unnecessarily represented that one of his men, named Bonney, was threatened with arrest for being concerned in the hanging of Hetherington and Brace. He was immediately informed that Bonney was directed to go about his ordinary business without seeking arrest; and on August 16 Andrews was dismissed from his office and Robert B. Wallace appointed in his place. On June 23, on motion of Hale, each company of the committee was requested to appoint a scrutinizing sub-committee to examine their rolls and report the names of all objectionable members, with a view to their expulsion; and subsequently the name of Russell A. Fish was stricken from the rolls; and David H. Hunter and J. L. Polk were expelled. As to Hopkins, the man stabbed by Terry, the committee, before it got through, got heartily tired. On July 5 the American theater offered to give him a benefit; and the committee consented that

¹ Vigilance Committee Record, June 8, 10, 14 and 30, July 19, 26 and 27 and October 25, 1856.

he might accept or refuse as he pleased; but, as the offer, like the usual offers of that kind, seems to have been an offer only of profits over large expenses, Hopkins had financial sagacity enough to refuse. He afterwards, on August 5, manifested his shrewdness in asking to be allowed to settle with Terry on a money basis; but that project, as has been stated, failed. On September 2, he made a direct application to the executive committee for money; and on September 23, it was resolved to pay him the sum of twelve hundred dollars in monthly installments of one hundred dollars per month commencing September 1; but, afterwards on February 13, 1857, apparently after six hundred dollars had been paid, the resolution was reconsidered and only one hundred and fifty dollars more were appropriated to be paid in three installments of fifty dollars per month.¹

One reason of thus changing the amount allowed Hopkins was doubtless his own mercenary character; but the main one was the other great expenses of the committee and the difficulty experienced in collecting the necessary funds to carry the business on. The matter of expenses first became a subject of serious consideration on June 10, when it was referred to Richard M. Jessup, chairman of the commissary committee. On June 13 he reported that the regular standing monthly expenses of the committee were in round numbers four thousand dollars, as has been already stated. Up to that time reliance had been had on voluntary contributions; but it was then seen that some more certain and reliable fund must be provided; and a few days afterwards the committee of citizens, appointed to raise money by the great mass meeting on June 14, was informed, as has also been stated, that twenty thousand dollars would be required to accomplish the purposes designed. On June 20 the amount of money on hand was about twelve hundred dollars and the audited bills unpaid nearly half that amount. On June 23 a draft for five thousand dollars was drawn on the treasurer of the citizens' committee; and this sum was paid and expended between that day and July 3, when the cash on hand was a little over seven hundred dollars and the audited bills unpaid over

¹ Vigilance Committee Record, June 23 and 24, July 5, 17 and 25, August 5, 14, 15 and 16, September 2, 16 and 23, 1856, and February 13, 1857.

twelve hundred dollars. Between July 5 and 20 five thousand five hundred dollars from the same source were paid in and expended, leaving audited bills unpaid to the amount of over fifteen hundred dollars. On July 22 the citizens' committee was asked to collect as much as it could; and loans were asked of the board of delegates ; but there appears to have been no sufficiently prompt response; and on July 28, when only two hundred dollars were on hand and over two thousand owing, a number of the members of the executive committee, including Coleman, Smiley, Dempster, Ward, Hale, Case, Goddard, David and N. O. Arrington advanced one hundred dollars each, followed within a few days by Truett, Rogers, Hutchins, Ludlow, Crary, William Arrington, Brittan, Dibblee and others.¹

On August 8 the expenses were calculated at nearly six thousand dollars a month; and a great effort was made, by discharging some of the employees and reducing salaries, to bring them down to within four thousand dollars a month. At the same time it was determined to adjourn the general committee and wind up its active organization with a grand parade, and, in view of the debts due and further expenses to be incurred, a number of sub-committees on collections were appointed, including and embracing many of the prominent men of the city. Collections went on better from this time, but not at first with the results that might have been anticipated. On August 17 the total disbursements up to that day figured twenty-nine thousand eight hundred and twenty-six dollars and fifty-six cents, leaving about one hundred and fifty dollars on hand and nearly fifteen hundred dollars owing. But on September 1 over seven thousand dollars were brought in; on September 9 over four thousand, and on October 7 nearly eight thousand more, leaving on the last named day about a hundred dollars on hand and a hundred and fifty dollars owing. These sums, amounting altogether to about fifty thousand dollars, with the exception of such amounts as had to be subsequently contributed by the members themselves for the purposes of meeting law and other unavoidable expenses, seem to have been all that were collected and constituted what may be called the money cost of the vigilance committee.²

¹ Vigilance Committee Record of days named.

² Vigilance Committee Record of days named.

Some of the money collected was from fines imposed upon members themselves; and the facts of their imposition and not unwilling payment were very significant of the earnestness of the committee. Most of them were for absence from meetings as provided by the rules of order adopted on June 11, already mentioned; but the fines so imposed were found to be too small; and on June 23 they were quadrupled. On June 28 it was ordered that five members of the executive committee, whose names were to be taken from the roll in rotation, should be detailed to remain all night at head-quarters; and the failure to comply with this order, after the first few nights, was a prolific cause of fines at the rate of ten dollars for each absence. On July 1 it was found necessary to urge upon members the necessity of attending to their duties; and on July 18 it was ordered that all fines should be paid by next day and that all delinquents should be considered in disgrace. It may be added that before final adjournment a vote of thanks was tendered to the Chinese for liberal donations.¹

The active existence of the organization lasted much longer than was at first expected and was much more of a burden upon the members and particularly the executive committee than they had anticipated. As has been stated, a committee was appointed on Wednesday, June 18, to take the proper steps for a speedy adjournment; but three days afterwards Terry stabbed Hopkins and the entire posture of affairs was changed. Though initiations were suspended on June 24, some new members were afterwards from time to time admitted under suspension of the rules. On July 27, however, after the Terry trial had been disposed of, a new committee on adjournment was appointed and on August 8, the day after Terry's release, it reported in favor of announcing their adjournment for August 18 and closing up with a grand parade. Until that time regular daily sessions were to be held; but no discussions were to take place except in pending business, and no one was to be allowed to speak more than once on any one subject nor more than ten minutes. On August 11 it was resolved that, in view of the proposed adjournment, a final address should be prepared for publication. But at

¹Vigilance Committee Record of days named.

the same time that arrangements were thus made for adjournment of the general body, provision was also made for future meetings of the executive committee and board of delegates, as well for the purpose of securing the legitimate fruits of the great struggle, which they had been making, as for closing up such open matters of finance and particularly such lawsuits and other vexations as their drastic efforts at reform were sure to bring in their train.¹

All the displays of the vigilance committee had been remarkable, especially that when Casey and Cora were taken from the county jail and that when the law and order forces were over-powered and marched down to vigilance head-quarters. But they were nothing in comparison with the parade of August 18. For several days previous to that occasion the citizens in general were preparing for it by covering their houses with flags and hanging banners across the thoroughfares. By nine o'clock in the morning of the day the streets were filled with armed men and by eleven o'clock thousands of citizen soldiers were marching to the music of their bands towards their appointed stations amidst dense masses of spectators. The various companies, which formed a line extending the whole length of Third street, about one mile long, were there reviewed by the executive committee and board of delegates. After the review the lines formed into procession, led off by Marshal Doane and staff. Next came the light artillery and marine artillery in four companies, with fifteen mounted cannon drawn by six, four or two horses, according to size of gun. Next was a mounted structure, representing "Fort Gunnybags" or the sand-bag battery of Sacramento street, which had been cleared away a few days previously. Then followed the executive committee mounted, three abreast, and after them two companies of dragoons, each preceded by a band; and then the medical staff of about fifty members. After these marched representatives of the vigilance committee of 1851, and then in order four regiments of infantry, each consisting of eight companies, except the last which had ten. Each regiment consisted of something like eight hundred men. The march was from Third street into Market and thence to Montgomery,

¹ Vigilance Committee Record of days named.

Clay, Stockton, Vallejo, Powell, Washington, Kearny, California, Sansome, Clay, Front and Sacramento to head-quarters, where they deposited their arms and then dispersed to their homes.¹

In every respect the display was magnificent, unsurpassed by anything in the way of civil or military exhibition that had ever taken place in the city. And on account of the apparently soul-fraught interest manifested by the participants and the extraordinary sobriety and good order shown on all sides, the executive committee took occasion on the evening of the same day to testify their great pleasure at the unanimity of feeling and correctness of deportment that had been shown and to express to all the officers and commands the high appreciation felt by them of the proficiency of their military evolutions and to the chief and members of the police department the like high appreciation entertained of their valuable and zealously rendered services. Three days afterwards, on Thursday, August 21, and on the following two days, in accordance with previous resolutions of the executive committee and to still further emphasize the intimate connection between the committee and the general public, the famous vigilance head-quarters on Sacramento street, which had played so important a part in the history of the city and state, were thrown open for general inspection; and during those days many thousands of persons, including most of the residents and many strangers, visited and examined them. The sand-bag fortifications in front had been removed; but the cannon on the floor, the guns and swords in their sacks and the ammunition in the magazines all remained. Everything was scrupulously clean and in order. Portraits and pictures ornamented the walls; in one place was a bust of James King of William; in another the famous ballot-box, with false bottom and sides partially drawn out so as to show the stuffed ballots that had been found in it. The offices of the grand marshal, quartermaster and commissary were finely carpeted. On the east side of the building, in the second story, were the cells that had been occupied by Casey, Cora, Sullivan, Hetherington and Brace, and in one of the adjoining buildings, of which the committee at one time occupied sev-

¹ Bulletin of August 15 and 18, 1856.

eral, was Terry's cell. The room of the executive committee was perfectly plain, containing only several long tables, a lot of chairs and some cases full of papers. In the police office there were exhibited such curiosities as usually garnish places of that kind, including pistols, bowie-knives and other deadly weapons that had been taken from prisoners. On the wall were the hats of Casey, Cora, Hetherington and Brace, surrounded by the ropes with which those individuals had been hanged. An old rusty blade, said to have been displayed when the law and order arms were taken out of the schooner Julia, was facetiously labeled, "The sword of the Pirate Durkee." Over the police rooms were the armorer's shop and the hospital and on the roof the bell, at whose tap the committee was ever ready to fly to arms. Of the implements of war on exhibition at the building, not counting those stored in other places, there were said to be some nineteen hundred muskets, two hundred and fifty rifles, three hundred dragoon sabers, seventy-eight Roman sabers and fifty-five artillery swords, besides a lot of shotguns and arms of other kinds.¹

The address, which in view of the proposed adjournment had been ordered to be prepared, was reported by Henry M. Hale on August 26, adopted by sections and as a whole and published in the newspapers of the next day. It took the form of an open letter from the executive committee to the general committee. It commenced by setting forth the condition of affairs previous to the organization of the committee, by which the ballot-box had been dishonored, the law perverted, justice prostituted, government corrupted, the exercise of free speech and the guardianship of a free press attended with peril, and life rendered unsafe upon the public highways. It maintained that a stern and awful necessity had demanded the employment of extra-legal and extra-judicial measures and that it had to be supported and protected by an armed militia drawn from the bosom of the people. It was the last resort of a long-suffering and insulted community. No people ever more regretted that necessity; no people on the face of the globe were ever more strongly opposed on constitutional grounds to the reassumption of any portion of those rights and

¹ Bulletin of August 22, 1856.

duties which, originally residing in the people, had been delegated to their servants. But in the resumption of that power, only those rights constitutionally inherent in the people had been invoked; all proceedings had been conducted with moderation; there had been a disposition to err, if err at all, on the side of clemency; and in all that had been done there was rectitude of intention, loyalty to republican principles, and a devoted love for and a devoted adherence to the true spirit of government and law. "You are now content," continued the address, "to lay aside your arms. It is your pride and delight that those arms are unstained by a single drop of citizens' blood. You have disarmed your opponents, who sought to embroil you in a fraternal conflict. You retire in the plenitude of your power. This event you sought and expected many weeks since; but the hostile attitude of your foes and the new issues forced upon you prevented the realization of your wishes, prolonged your active service, and were the means of perfecting your military discipline. You will retain your organization, but without active service as a body and without the design and desire of again assembling. Yet as a provision against possible contingencies, your executive committee will endeavor to exercise vigilance in the investigation and reformation of abuses and in aiding and urging forward the constituted authorities in the discharge of their duties—reserving the discretion and privilege of reassembling the board of delegates or the general body, should serious occasion arise. Such occasion, in the judgment of the executive committee, might be found—first, upon the return of any person you have banished or upon the necessity of enforcing any sentence already passed; second, upon the necessity of protecting any member of the committee from violence or malicious prosecution arising out of any act performed by authority of the committee; third, in the event of any assault upon the life or liberty of any citizen, should it be apparent that the laws or the officers of the law are insufficient for the protection of the citizen or the punishment of the offender, and, fourth, in case of any violation of the purity of the ballot-box or the sanctity of the elective franchise.

"The people," continued and concluded the address, "have

found that they are not powerless under the rule of crime. Mighty has been the demonstration of the mind and voice of an awakened public in the great moral conflict. Let this moral power, vast and terrible when fully aroused, complete the work which your hands have begun. Aid it with your hearts and hands. Aid it by your example, your voice, your votes. Aid it in the jury-box, at the polls, by your daily life and conversation, by the public press, by the pen which is mightier than the sword. Let not the good work flag. Remember that eternal vigilance is the price of liberty. Be vigilant in bringing criminals to justice. See to it that the courts and the officers of the law do their duty. Aid them in the execution of that duty; and, in the unswerving integrity of manly and honest hearts, looking to that Providence who has guided you in doubt and danger, who has brought your labors to a successful result, may you ever adhere to the true principles of vigilance, sustaining the laws when rightly administered, the government when faithful to the people, and the supremacy of the people as the source of both government and law."¹

The impression produced by the parade and address or, perhaps it may have rather been, the unanimity of feeling manifested by the community in favor of the committee rendered it unnecessary to call them together again or even to call the board of delegates. But the executive committee met many times afterwards and in fact continued their sessions for several years. They had undertaken, as stated in their address, to endeavor to carry out the reforms which had been commenced; and they seem in what they subsequently did and to the end to have been animated with the same spirit as that in which they first assembled and which from the start had characterized all their proceedings. One of the first subjects demanding their especial attention after the adjournment was the disposition of the state arms, which had been seized but were no longer needed. William C. Kibbe, Governor Johnson's quartermaster-general, had been very regularly and persistently demanding the return of those arms ever since they were taken; and on August 23,

¹Vigilance Committee Record, August 11 and 26, 1856; San Francisco newspapers of August 27, 1856.

after the parade, he again demanded them; but a verbal reply was returned that the committee deemed it inexpedient at that time to surrender them. On August 25, George R. Ward reported that he had had an interview with Kibbe and had intimated to him that until the governor should withdraw his proclamation, there would probably be no negotiations entered into for the surrender of the arms. On October 7 it was resolved that they would be given up as soon as practicable after the withdrawal of the proclamation; but on October 14, on motion of Ward, it was determined that they should not be returned until after the general election of November 4 of that year. On the day before the election, however, as the governor had withdrawn his proclamation, the arms were delivered up; and Jessup, Ward and David were thanked for their services in arranging and seeing to a satisfactory transfer.¹

A very important matter was brought to the attention of the executive committee on September 8 in the presentation of a list of jurors for the various courts. There was an immediate call for an expression of opinion on their merits. On motion of Burke it was resolved that a list should be made out by the secretary of all the jurors named, who were of doubtful character or who were not known, and that copies of the same should be posted up in conspicuous places with a request that all members of the vigilance committee or others, who might be able to show any cause why they should not serve as jurors, should report the same in writing as soon as possible. And from that time forward for some years there was a marked improvement in jurors and juries, owing partly to the scrutiny thus inaugurated and partly to the very great improvement, brought about by the next election, in the character of those to whom the choice and summoning of jurors were intrusted. It was indeed very plain all the time that not only jurors and juries but the administration of justice and the government itself for the future, if there was to be any improvement, must depend upon the kind of men to be elected to office; and, as the time of the election approached, very great efforts were made not only to secure good candidates but also to guarantee to every elector an opportunity to cast his

¹ Vigilance Committee Record of days named.

vote and have it honestly counted. It fortunately happened at that time, on account of the taking effect of the "consolidation act," whereby the city of San Francisco and the county of San Francisco were thrown together under one municipal government, thenceforth known as the City and County of San Francisco, that all the local offices had to be filled anew or, more accurately speaking, that all the officers named by the new organic act had to be elected.

It was in the election of November 4, 1856, that the vigilance committee began to show its extraordinarily beneficent ulterior results. The necessary beginning of the great reform that was needed was to completely clean out all the municipal offices. Without reference to the fact that some of them may have been well enough filled, it was patent to every one that all had been filled under a base and corrupt system, which smirched if it did not thoroughly blacken every incumbent; and it was felt and had all along been felt not only by the vigilance committee but also by the better class of citizens in general that one of the first things to be done was to get rid of them. The first public expression of this feeling seems to have been made by William Sharon. At the great mass meeting of citizens, called for the purpose of giving moral support to the vigilance committee and held in front of the Oriental Hotel on the afternoon of Saturday, June 14, after Bailie Peyton, the president of the day, had with such tremendous effect exhibited the famous double improved back-action ballot-box as the orator of the occasion, Sharon came forward and stated that he had a few resolutions, which he desired to present but had been prevented. He then in a few words set forth the fraud and corruption with which the offices had been parceled out and pronounced the officials as a whole one of the vilest bands that ever infested a community. He then insisted that all ought to be driven out and read his resolutions. There were only two of them and they were very short; but they were very strong. They were to the effect—first, that the previous election had not been a fair expression of the popular will but had been carried by fraudulent outrages on the elective franchise, and, second, that all official incumbents should be publicly requested to resign. There can be little or no doubt that the

meeting would have adopted these resolutions cheerfully, if it had been given an opportunity; but Bailie Peyton himself was city attorney at the time and several others of the managers of the meeting were exceedingly tender-footed and careful of their steps; and, among them, they managed, in spite of some murmurs of applause that were rising in Sharon's favor, to declare the meeting adjourned and thus prevented a vote.¹

The next day, Sunday, June 15, in the executive committee, as has already been stated, Coleman moved for a special committee to inquire and report, among other matters, upon such officers as should be invited to resign. But the absorbing troubles caused by Terry a few days afterwards interfered with the business; and little or nothing further in reference to the subject was done until a second great mass meeting of citizens, which took place in front of Montgomery Block on the evening of Saturday, July 12. By that time the feeling against the incumbent officials had fully ripened; and the meeting was called for the express purpose of demanding their immediate resignation. Ira P. Rankin occupied the chair; but William Sharon was one of the vice-presidents; and his resolutions, which had at the former meeting been so unceremoniously excluded, formed the text of all that was said and done; and the result was the hearty indorsement of a petition addressed to the county judge, mayor, sheriff, district attorney, county clerk, recorder, treasurer, assessor, surveyor, coroner, superintendent of schools and justices of the peace respectively, stating the doubts existing as to the legality and fairness of their election and asking them to consult the wishes and feelings of the people and resign their offices. The meeting then, after appointing all its officers as a committee to wait upon the officials and request compliance with the petition, adjourned until the next Monday evening. On Monday morning and afternoon a very full report on public corruption, which had been prepared under the direction of the executive committee and set forth a large number of flagrant abuses and violations of law by county officials, was published in the newspapers and strengthened the movement.²

¹ San Francisco newspapers of June 15 and 16, 1856.

² Vigilance Committee Record, June 15, 1856; San Francisco newspapers of July 14, 1856.

At the adjourned meeting of July 14, it was announced that the officials in general had refused to resign and letters to that effect were read from County Judge Thomas W. Freelon, Sheriff David Scannell and District Attorney Henry H. Byrne. Freelon and Byrne claimed to be injured innocents; Scannell confined himself to a simple but positive refusal. Mayor James Van Ness, Clerk Thomas Hayes, Recorder Frederick D. Kohler, Assessor James W. Stillman, Surveyor James J. Gardiner, Coroner J. Horace Kent and Justices of the Peace David B. Castree and Charles M. Chamberlain also refused. Superintendent of Schools John C. Pelton and Justice of the Peace E. W. Smith manifested a willingness to comply. Treasurer Robert C. Woods and Justice of the Peace Laurence Ryan had not been heard from. It is perhaps not very likely that any intelligent person expected the officials to resign; but it was expected that the movement would have a very beneficial effect upon the approaching election and enable a complete change to be made in the kind and character of the persons who were to carry on the government. This desirable result was even helped along by some of the rowdy friends of the officials, who attempted to break up the meeting but were quickly seized, marched off to vigilance head-quarters, clapped under lock and key and fed on bread and water for the next couple of days for their pains.¹

As the election approached great attention was paid to the selection of proper candidates and the carrying out of proper arrangements for securing a fair and honest expression of the popular will at the polls. On July 14, on motion of Hale, a resolution was adopted to the effect that no member of the executive committee or prominent officer of the committee of vigilance should, with the sanction of the body, accept an appointment to public office; but this strict requisition was afterwards on October 14 modified into a simple request that members of the executive committee should decline nominations upon tickets opposed to what was already at that time known as the "People's party." This great party, which for a number of years afterwards conducted the municipal government of San Francisco and made it

¹San Francisco newspapers of July 15, 1856; Vigilance Committee Record, July 14, 1856.

for the time the best governed city in the United States, was perfectly well understood by everybody to be the party upon whom was to devolve the duty of continuing the work of the vigilance committee by carrying into the legitimate administration of municipal affairs the same pure and well-intentioned spirit which had characterized the proceedings of the committee.¹

The People's party, which was in effect the successor to the vigilance committee and the result of the extraordinary popular uprising of which the vigilance committee was the exponent, started, so to speak, in a great mass meeting of citizens held in front of the American Exchange on Sansome street, between California and Sacramento, on the evening of Monday, August 11. This meeting took place in response to a call, in the shape of an address, which had been for some days circulating among the business men of the city and was signed by about three hundred first-class citizens. It set forth that there was no intention and no desire to interfere with any of the candidates for the presidency or vice-presidency of the United States; but in nine paragraphs, under the repeated heading of "We need and the public voice demands," it declared that the administration of justice should be put into the hands of pure-minded men; that good men should devote at least a few weeks of the time to public affairs; that there should be a registry of voters and an untainted ballot-box; that the distribution of place and power should be no longer in the gift of political hacks or professional politicians; that there should be a faithful guardianship and economical administration of the public funds; that in all possible cases public officers should be compensated by fixed salaries and fees paid into the public treasury for public use; that there should be a registry of all citizens competent to act as jurors, whom no sheriff or sheriff's deputy should be allowed to select, and who should be paid out of the public treasury a per diem for attendance; that costs of court should be reduced so as to enable the poorest man to maintain an action for his rights and at the same time deprive the corrupt office seeker of all temptation to fraud and oppression; and, in conclusion, that there should be a thorough reform in all branches of the public administration, a universal participa-

¹ Vigilance Committee Record, July 14 and October 14, 1856.

tion in the benefits of government, universal education and the largest liberty consistent with public and private virtue.¹

It happened that there were several untoward circumstances connected with this meeting, arising apparently from the want of skill in some of those who attempted to manage it, which for a while seemed very unfavorable to the launching of a great party. But it came around all right in the end. In the first place, probably on account of some mistake on the part of the meeting, Lafayette Maynard, who had been named as president, was not acceptable; and Ira P. Rankin was put in his place. Rankin did not appear to know exactly on which side he stood. He said he indorsed the platform, but he had his doubts about the propriety of the movement; and it was for the people to decide. This bad start was however followed by the reading of a preamble and resolutions calling for the appointment of a committee of twenty-one to recommend candidates for city and county offices and encourage the election of members of the legislature pledged to reform, and also an address to the people of San Francisco asking their concurrence and co-operation in the proposed plan of rejuvenation. Immediately after the reading, Treanor W. Park endeavored to capture the meeting by moving that no nominations should be made until after the other or regular political parties had nominated; but his remarks were not relished; and when William Duer followed, in very strong and emphatic terms in favor of the movement and against hesitation, delay or doubt of the result, he carried the audience with him. The resolutions were adopted and the "committee of twenty-one," afterwards famous in the history of the city as a nominating body, was appointed. This committee held secret meetings for about a month, in which it appears to have thoroughly canvassed the names of candidates; and on September 11 it presented a ticket for legislative and city and county officers under the name of the "People's Reform party" or, as it was soon afterwards known, the People's party. The Democratic party did not present their ticket until October 20 and the American or Know Nothing party theirs until October 21. The Republican party, then just started, indorsed the ticket of the People's party.²

¹ Bulletin of August 8 and 11, 1856.

² Bulletin of August 12, September 11, and October 21, 22 and 24, 1856.

Several weeks before the election was to come off, a conference took place between the executive committee of the vigilance committee and representatives of the committee of twenty-one in reference to the preservation of the public peace and protection of the ballot-boxes at the polls. The result was the issuance on October 28, a week before the election, of a remarkable series of instructions, addressed to certain prominent individuals, apparently one in each district. The person so addressed was notified that he had been appointed by the executive committee to take charge of the vigilance police force that would be detailed to his district on the following Tuesday. He was reminded that neither the vigilance committee as a whole nor its members as such could assume either side in political controversies and that the adoption of any other rule would not only be wrong but would lead to dissensions among them. But there were certain important duties in reference to the election which he could undertake and which were confided to him. These were especially the preservation of the ballot-box from attack of any kind and the securing of every citizen, whether good or bad, in the free exercise of his elective franchise. He was asked to confer as early as possible with the men, who were to act under him; to obtain from each a pledge to lay aside other business on that day and devote his time and attention exclusively to the election; to recommend each to vote as early as possible; to enjoin upon each to avoid the display of weapons except under the most imperative necessity, and to be courteous to all. If he should find it necessary to arrest any person on account of drunkenness or disorderly conduct, he should send such person to the station house; but if any person should attempt to vote twice or be concerned in an attempt to destroy a ballot-box or take it from its legal custodians or interfere with the counting of the ballots, he should send such person under a sufficient escort to the building on Sacramento street recently occupied by the vigilance committee and at once dispatch a mounted messenger with the information to the executive committee;—and like information was to be in similar manner transmitted in case of any interference on the part of anybody with the suffrage. He was further notified that the vigilance dragoons, who would be near the polls, would

be the most reliable and speedy messengers; and he was urged to impress upon each of his associates the facts that he was in some measure at least the representative of seven thousand free-men; that he might add luster to the good which the vigilance committee had already accomplished by energy, discretion and impartiality upon election day, and that on the contrary any lack of these qualities might tarnish not only his own character but the reputation of the body of which he was a member and entail evil consequences upon the entire community.¹

The election took place on November 4 and resulted in a triumph of the People's party. It was perhaps the first honest election that had taken place in the city. A year or so before, it was usual for a district, that did not contain over three hundred votes, to make a return, under the manipulation of such men as Yankee Sullivan, of fifteen hundred votes; but on this occasion the count showed a total of only about twelve thousand voters in the city and county. Of these Buchanan received a little over fifty-three hundred votes; Fremont near five thousand, and Fillmore about sixteen hundred. But the Republican and People's candidates for the legislature received some fifty-five hundred votes as against forty-three hundred for the Democratic and from twelve to fourteen hundred for the American. For municipal officers the votes of the People's party candidates amounted to nearly twice as many as for the other parties combined; and all the People's party candidates for district offices, such as supervisors, school directors, justices of the peace and so on, were elected by very large majorities, except in the first district on the water front, which went Democratic. The induction into office of these new officers a month or two afterwards, was the beginning of an era of good government characterized by public order, decency and economy, which had not before been experienced. A few of the members of the vigilance committee had been nominated. Most of the officers elected were persons who had been chosen without regard to their politics but were known to be good men, well disposed and who could be relied on. They did so well in office that the next year the committee of twenty-one, who had so successfully nominated them, was asked

¹ Vigilance Committee Record, October 14 and 28, 1856.

to appoint a second committee of twenty-one; and the two committees together nominated a People's ticket for the election of 1857, which was equally triumphant; and from that time on for a number of years the People's party ruled San Francisco and did it better than it has ever been governed at any other time before or since.¹

After the election and induction into office of the People's party, which took up and worthily and successfully carried on its work of reform, there was little or nothing left for the old organization to do but settle up and get rid of a number of vexatious lawsuits, which had been or were brought against various of its members. The first of these was the prosecution in the United States circuit court for California of John L. Durkee and Charles E. Rand for piracy, already mentioned. There was not a single element of piracy in the case; but a combination of enemies of the committee—consisting of Attorney Andrew J. Glassell, who drew and with the assistance of Calhoun Benham prosecuted the complaint, John G. Phillips, a companion of J. Reuben Maloney, who swore to it, and George Pen Johnson, United States commissioner, who issued the warrant and held the accused to answer—was sufficient to set the machinery of a prosecution in motion. After Durkee was arrested, an application to admit him to bail was made before Ogden Hoffman, United States district judge, who fixed his bail to answer before the United States grand jury at twenty-five thousand dollars, and at the same time took occasion, in an extra-judicial manner, to express his private opinion about the committee of vigilance, which was intended to be anything but complimentary to them. On September 3, the United States grand jury, which appears to have been equally prejudiced, returned an indictment against Durkee and Rand—though perhaps under the testimony presented they could not well have done otherwise. After the indictment, bail was refused by M. Hall McAllister, the United States circuit judge. But the trial was hastened; and on September 11 the farce was ended by the acquittal and discharge of

¹San Francisco newspapers of September, October and November, 1856; Vigilance Committee Record, June 26, 1857.

Durkee and the speedy release thereafter of Rand on *nolle prosser* and without a trial.¹

Not long after the grand parade of August 18, William T. Coleman, president of the vigilance committee, had occasion to visit the eastern states; but he had barely reached New York before he was made defendant in a lawsuit for damages, brought against him by Maloney. On October 17, as soon as information of the proceeding reached San Francisco, the executive committee resolved that the suit was to be considered as an attack upon the entire committee and that it would act as if each member were personally in jeopardy. On November 14, attention was called in the executive committee to other damage suits, which had been commenced in New York against other members of the committee, including James Dows and Miers F. Truett, by Mulligan and Duane as well as Maloney; and an assessment of five dollars—only the first of a series of like assessments which in the end became very irksome—was imposed upon each member of the executive committee to defray expenses. On November 21, on account of the annoyances thus occasioned and in as far as possible to avoid the burdens of more prosecutions, it was resolved to be inexpedient and unjust for any more members to visit the eastern states and expose themselves to prosecution relying upon the committee to sustain and indemnify them; and that, as no member had a right by any voluntary and unnecessary act to involve the committee in pecuniary loss, if such would be the result, all honorary obligation on the part of the committee should cease. An express exception, however, was made in reference to such parties as had already been sued; and various sums were from time to time collected and paid by the committee to meet the expenses of the suits. On December 12 Jules David, who had become treasurer of the committee, reported that he had paid out twenty-five hundred dollars of the funds collected for that purpose; and on December 17 he was ordered to pay one thousand dollars more, and on January 2, 1857, to transmit to Coleman in New York the balance of the fund. It afterwards appeared that the suits commenced in the east were defeated, mainly on the ground that the courts there declined to assume

¹ San Francisco newspapers of September 4, 6 and 12, 1856.

jurisdiction; and the complainants made nothing out of them; but the necessary expenses of defense were considerable; and the executive committee were obliged for several years to continue their meetings and provide ways and means. On September 22, 1857, it levied a monthly assessment of five dollars upon each of its members. On May 2, 1859, upon news of the decision of the New York courts, a sum of five thousand dollars to defray the final expenses incurred there was raised by contributions among the members.¹

In the early part of 1857, some months after the vigilance committee had adjourned and it was well understood that it would not convene again except for much more serious cause than mere words, a few Parthian shots were fired by several of its enemies. These, however, did little or no harm. One was an attempt by Governor Johnson to say something severe in his message to the legislature. But he had exhibited so much weakness and placed himself in so unfavorable a light by what he had already done in reference to the subject, that no one paid any respect to what he said. Another attack was made in the state senate by Frank Tilford, one of the senators from San Francisco. He seems to have been displeased on account of a number of unpleasant remarks made in the Evening Bulletin newspaper, which was supposed to represent the committee, and also on account of a want of confidence in him by the committee which was however rather felt than spoken. He tried to be severe and perhaps would have been, if the subject had admitted of it. But while he was bitter, it must be said of him that he did not stoop to deliberate misrepresentation nor did he use coarse and vulgar billingsgate. That unsavory distinction was reserved for James M. Estell, a member of the assembly from Marin county and formerly lessee of the state prison, against whom the Bulletin had not only made serious charges of corruption but the vigilance committee had accumulated large amounts of evidence. There seems to be no doubt that the committee would have arrested Estell while they were in active operation, had it not been that the offenses charged against him were committed at the state prison in Marin county and they wished to confine their

¹ Vigilance Committee Record of days named.

work to offenses committed in what was then or had been up to about that time San Francisco county. They, however, authorized the publication of a statement of some of the charges and transmitted to the legislature a memorial on the subject, suggesting that public decency required an investigation. It was in answer, so to speak, to this statement that Estell in the assembly, on February 3, 1857, delivered the coarsest speech ever heard in the California legislature. He did not attempt to disprove the charges against himself but to distract attention by retailing low stories about others, in which there was no truth and the recital of which was calculated to produce in decent ears only disgust. As is the case with speeches of that kind in general, the more he said the worse he made his own cause, and the darker the mud he used the blacker he bedaubed himself.¹

There may have been some justification or at least some excuse for persons, who like the above mentioned had come into conflict with the committee or against whom they had preferred charges, to make attacks and say as bitter things as possible whenever an opportunity presented. But there was another individual, differently situated, who attacked without cause and apparently from a mere love of controversy or a quixotic idea that he could teach other men their duties better than they knew them themselves. This was Rev. Dr. William A. Scott, minister of Calvary Presbyterian church of San Francisco. He had managed to get into a newspaper controversy in reference to the vigilance committee and, feeling himself able to show it the errors of its ways, he towards the end of February, 1857, addressed a communication, with that object in view, to the executive committee. That body, having matters of more importance to attend to at the time, referred it without reading to Dempster to examine and report. A few days afterwards Dempster reported that the communication merited no consideration at their hands; that it was dictated by a desire to awaken controversy upon points regarding which other men as experienced, as conscientious and as capable of judging between right and wrong as the author, had reached directly opposite

¹San Francisco newspapers of February 5, 1857; Vigilance Committee Record, January 16 and 23, 1857.

conclusions, and that the proper disposition was to return it to the writer without comment. And this was the course taken—with the addition that, on motion of Burke, a copy of Dempster's report was sent with it.¹

About the time that Tilford in the senate and Estell in the assembly were ventilating their feelings against the vigilance committee, Edward McGowan—who ever since the killing of James King of William, for which he had been indicted by the grand jury of San Francisco as an accessory before the fact, had been a fugitive from justice—made his appearance in Sacramento. Almost immediately after King's death, and particularly after the finding of the indictment, search was made for McGowan; but he was nowhere to be found. The fact that he had managed to secrete himself seemed to whet the desire of the committee to arrest him; and the most constant and strenuous efforts were made, lasting several months and involving large outlays. McGowan had of course the sympathy and aid of the entire law and order party to assist him; but he was also himself skillful and sagacious at the business of eluding capture. According to his own account, he remained concealed in various places in San Francisco until June 27, when, in company with James G. Denniston and José Ramon Valencia, Spanish-speaking residents of the Mission Dolores, he escaped into San Mateo county and thence, passing through Santa Cruz, Monterey and San Luis Obispo counties, traveling chiefly by unfrequented trails, reached the Refugio rancho in Santa Barbara county on July 3. On July 6, he incautiously ventured into the town of Santa Barbara and was recognized by several persons, whereupon efforts were made to arrest him; and, as soon as news of his being there reached San Francisco, the schooner *Exact* was purchased by the committee, manned with a party of the vigilance police under the lead of James F. Curtis and sent southward in search of him. Meanwhile all sorts of rumors about his presence at different points had been started, doubtless by his friends, and found their way into the newspapers. These reports were so numerous and represented him at so many different places between the eastern states, Mexico and China at or about the same moment that he

¹ Vigilance Committee Record, February 27 and March 6, 1857.

seemed to be almost everywhere and got to be generally known as "the ubiquitous." He had been accustomed to wear a conspicuous white hat, as before stated, and it became in a sense almost as famous for flitting over the country as the wishing cap of the fairy tale.¹

McGowan would undoubtedly have been arrested at Santa Barbara, and a hue and cry was raised for the purpose; but, fortunately for him, he was befriended by a notorious individual of those days, supposed to be a highwayman and horse-thief, known as Jack Powers. Assisted first by him and afterwards by Dr. Nicholas A. Den of the Dos Pueblos rancho in Santa Barbara county and a few others, he managed, by skulking around in the mountains and hiding in remote places, to elude his pursuers, although in doing so he ran many dangers and made many hairbreadth escapes. In the course of a couple of weeks the Exact returned to San Francisco, though some of the police remained; and soon afterwards the search flagged. After the legislature met in January, 1857, and it was found to be largely composed of men who, like Tilford and Estell, were not friendly to the vigilance committee, a movement was set on foot to pass a bill for the purpose of having the indictment against McGowan tried in some other county than San Francisco. He was accordingly sent for to come to Sacramento to assist in getting the bill passed; and Lieutenant J. Martin Reese of the San Francisco Blues was despatched after him. They left Dos Pueblos on February 14, 1857; and, proceeding by way of San Luis Obispo, San Juan, Pacheco Pass and Stockton, they reached Sacramento on February 28. As soon as he arrived, the bill intended for his benefit was rushed through; but it was changed from being a special act to a general law on the subject of changing the place of trial in criminal cases and as such was regularly passed and approved on March 10, 1857.² In accordance with this statute, the venue in his case was changed from San Francisco to Napa county, where the trial commenced before Judge E. W. McKinstry of the district court of the seventh judicial district on

¹ Narrative of Edward McGowan, &c., San Francisco, 1857, 26-70; Vigilance Committee Record, July 9, 1856.

² Stats. 1857, 71.

May 29, 1857. One of the chief features of it was the extraordinary testimony of Dr. R. Beverly Cole to the effect that King's death was caused not by the bullet of Casey but by the wrong practice of the surgeons in charge of his wound. Whatever may have been thought of Cole's testimony, there was certainly no sufficient evidence to justify conviction; and at the end of a three days' trial McGowan was acquitted and discharged. But for the remainder of his life—and he was seen at times on the streets of San Francisco for nearly forty years afterwards—he was a changed and probably a harmless man.¹

It was undoubtedly a fortunate thing for the vigilance committee that it did not get hold of McGowan; for it can not be believed, judging from what it did in other cases, that it would have convicted him of any capital offense; and it would have been difficult otherwise to satisfy popular expectation. However this may have been, it seems likely that the executive committee and board of delegates, which still from time to time held sessions, were more or less impressed with the difference between what was ordinarily supposed to be McGowan's guilt and the case made against him by the witnesses. This and the still unexecuted sentences of expatriation against several offenders, while on the other hand the People's party had complete control of municipal affairs and had already made a model government of the city and county of San Francisco, suggested the propriety of entirely withdrawing the vigilance committee from being any longer a factor in municipal affairs; and, with this end in view, Truett on August 21, 1857, moved for a rescission of all sentences and penalties of every kind. To the resolution offered by him, Smiley and Hale on September 22 offered a preamble to the effect that the people of San Francisco had by their votes indorsed the acts of the vigilance committee; that they had selected officers of their own free choice; that they were satisfied that in the future the laws would be fairly and justly administered, and that the power in the people to check evil-doers and control the vicious had been fully re-affirmed. On September 22 the preamble and resolution as a whole passed the executive committee by a vote of twenty ayes to six noes. On

¹ Narrative of Edward McGowan, 70-236.

September 24, the board of delegates was convened and discussed the subject, and again discussed it on October 5, on which occasion the preamble and resolution were rejected by a vote of forty-two to twenty. But at a subsequent meeting, held October 12, 1857, after Dempster, Truett, Farwell, Ward and Hale had been called upon to speak, the preamble and resolution were adopted by a vote of thirty-three to twenty-two; and a motion to reconsider was lost by a decisive vote of fifty-four noes to five ayes. That was the last meeting of the board of delegates. Nor was there any further meeting of the executive committee except such as was called from time to time in reference to lawsuits still pending and ways and means to meet costs and expenses. The last entry in the record was under date of November 3, 1859, when the finance committee was instructed to reimburse the sureties in the suit of Martin Gallagher against the bark Yankee for any amount of damages they might be subjected to, and the law committee was given full power to act as it might deem advisable in reference to the suits brought against members of the committee by the Green family.¹

Within a year or two after the rescission of sentences and penalties a number of the expatriated returned to San Francisco. They were as a rule very different men from what they had been or at least much more careful in their conduct. Generally they were very willing to be quiet and try to be forgotten; but several of them appear to have seen an opportunity, in the fact that the benches of the two federal courts were still filled by judges who had already manifested enmity to the committee, to occasion considerable annoyance and perhaps make some money. Martin Gallagher, whose suit against the bark Yankee has been mentioned, obtained a decree from the United States district court in 1859 for three thousand dollars. Charles P. Duane, who returned in 1860, commenced a number of suits in the same court and managed to get a decree in one of them against the steamer John L. Stephens for four thousand dollars. As to the suits by the Green family, which had no elements of federal jurisdiction about them and had therefore to be brought in the state courts, the outcome was different. Of the enormous aggre-

¹ Vigilance Committee Record of days named.

gate of damages claimed by all the brothers, John L. Green, whose case was the only one tried, asked fifty thousand dollars. The trial took place before Judge Edward Norton of the twelfth judicial district in 1860 and resulted in a verdict for one hundred and fifty dollars—a sum so small that under the law he would have been obliged to pay all the costs, if he had been what was ordinarily known as a responsible man. But being otherwise, he could not be made to pay anything more than his own costs and probably not all of those. Altogether it was a losing business; and, there being thus so little encouragement given in the one suit, the others were dropped. And thus ended the straggling annoyances which followed the most remarkable municipal reform ever known in the country.¹

¹Newspapers of the day and court records in cases named.

BOOK X.

STATE GROWTH.

CHAPTER I.

PEOPLE'S PARTY REFORM.

THE triumph of the People's party, as the heir and successor of the vigilance committee and the legal executor of its spirit and principles, introduced an entirely new era into the affairs not only of the city of San Francisco but also to a great extent into those of the state. It had been the object of the managers of the new party to secure an honest and economical administration of the municipal government, without reference to selfish interests; and they accordingly contemplated nothing in their proceedings except what was calculated to accomplish this purpose. Their candidates were selected with a sole view to their ability and integrity; and, so far as possible, no other considerations were allowed to have weight. No question was made as to politics, nationality or religion, but simply as to trustworthiness and capacity. It made no difference whether a man came from the north or from the south, whether he was a Republican or a Democrat, whether he was a Protestant, Catholic or Jew—if he could and would do the work properly required of his office, and particularly if he had in any manner either as a member of the vigilance committee or otherwise given proofs of his reliability, that was all sufficient. It can not be said that the very best men were in every instance selected; but as a rule all the offices filled by the People's party—and especially in the early years of its sway—were well filled.

It was astonishing what a change for the better in the administration of municipal affairs took place as soon as the new officers were in their places. If there ever had been any doubt in San Francisco, or if there ever should be any doubt in that or any other autonomous city as to how to secure good officers and good government, the experience of those days showed it to be entirely in the hands of the people. It showed that it might be difficult to get them into a condition in which they could and would unite and determine upon an honest and efficient administration and in which they could and would cast aside all other considerations except such as tended to accomplish their object; but it also showed that when that stage was reached the result was sure. Possibly a revolution more or less extensive or an upheaval of some kind or other might be necessary to produce the condition required, as was the case in San Francisco. It was very plain, however, that it was not the revolution or upheaval that produced the beneficent rule and good government of the People's party; but the earnest determination of the community in that direction, which was brought about as a result of what had immediately preceded. And the same result must necessarily follow whenever the earnest determination of the community demands it and however such earnest determination may be brought about, whether by violent or peaceful means, provided it be at once active and unyielding and unswayed by any considerations except those of the public good.

When the People's party thus came into power, it happened, very fortunately for the new party as well as for the municipality and all the interests connected with it, that the new city and county charter, which afterwards became famous under its commonly accepted name of the consolidation act, had just gone into effect and that the election of 1856 was for a complete new set of municipal officers. This remarkable and as it proved exceedingly beneficent statute, though more or less based upon previous legislation and copied from enactments in other consolidated municipal governments, was principally the work of Horace Hawes, then a member of the assembly from San Francisco and the same person who as prefect of the San Francisco district in 1849 had stood up so firmly and persistently for the city's inter-

ests against corruption and fraud. He introduced the bill, in very nearly the same shape as it afterwards passed, into the assembly on January 14, 1856. It passed that body on April 1 and the senate on April 10; and on April 19, 1856, it received the approval of the governor and became a law.¹ It met with some opposition, particularly from persons who could not or would not appreciate Hawes' far-sighted and statesmanlike policy; but the general voice was strongly in favor of it; and the legislature felt the influence of the popular demand. This feeling was well exemplified in a report made by William W. Hawks, a senator from San Francisco, on April 8, 1856, in reference to certain amendments adopted by the assembly. "Although," said he, "the city of San Francisco is on the verge of ruin and bankruptcy, and although the measure proposed in the bill will rescue her beyond a doubt from her imminent peril; although her people are looking to this legislature with pleading eyes for relief from their heavy burden; although the state of California must sensibly feel in the repletion or depletion of her treasury the defeat or passage of this measure of consolidation; and although I myself together with my colleagues will surely draw down upon our heads the indignation of our constituents if this bill is defeated—still I can not conscientiously refuse to indorse such amendments to it as those the assembly have adopted and which meet with the disapproval of my colleagues."²

The main features of the consolidation act were a lopping off of all that portion of the original county of San Francisco south of a line running through the southern extremity of Lake Merced and its erection into San Mateo county; a consolidation of what was left into a new organization, to be known as the City and County of San Francisco, combining both city and county; a supersession of the three old boards of city aldermen, city assistant aldermen and county supervisors and replacing them with a single municipal legislative board of twelve members to be elected respectively from each of twelve districts into which the city and county was to be divided; a reduction, and wherever possible an abolition, of official salaries; a clear, definite and

¹ Assembly Journal, 1856, 109, 652, 870; Senate Journal, 1856, 767.

² Senate Journal, 1856, 747.

careful limitation of official powers and especially a stringent and positive inhibition against the contraction of any debt or liability in any form whatsoever against the city and county, or the imposition upon the people or taxpayers or any property of any assessment on account of any debt or liability that might be contracted or attempted to be contracted in contravention of the provision. Special attention was directed to official bonds and the responsibilities of sureties; and no banker or any agent or near relation of a banker was to be accepted as surety for any officer having the collection, custody or disbursement of money. No payments could be made from the treasury or out of the public funds unless specifically authorized and duly audited; and no demand could be audited unless presented to and passed upon by every officer and board and finally allowed as required by law, and such facts of presentation and allowance had to appear upon the face of the paper representing the demand.¹

As will readily be seen and easily understood the great underlying principle of the new scheme of municipal government was the prevention of extravagance and corruption and the introduction into every branch of the administration of the strictest economy or even parsimony, as some of Hawes' detractors chose to call it. Whatever name be used to designate the fact, it was just what was needed. As Hawks had said, the municipality was on the verge of ruin and bankruptcy and only the measures proposed could rescue it, and did, as the event fully proved, save it from the imminent peril. There was of course, as in all such cases, some misgivings and doubts, some hesitations and some obstacles; but in a comparatively short time, as soon in fact as the new system could be got into operation, the beneficence of the measure became apparent and its success assured. According to express provision the act, except as to the creation of election districts, was not to take effect until July 1, 1856; but in the meanwhile the existing municipal government was restricted from contracting debts or liabilities; and the old officers were to serve until the election of the new ones at the general election of the following November, except that the justices of the peace remaining in office on July 1, 1856, were until the next election

¹ Stats. 1856, 145-178.

to act as and have all the powers of a board of supervisors under the act.¹

In the meanwhile, after the passage of the consolidation act but before the election of November, 1856, the vigilance committee arose and ran its course and the organization of the People's party as its successor and executor followed. At the beginning of July, when the act took effect, the justices of the peace remaining in office, of whom there were four, chose a president in the person of George J. Whelan and proceeded, in connection with the other hold-over officers to carry on the administration of the municipality; but as the government was still substantially in the hands of the vigilance committee and that august tribunal had its scrutinizing and exacting eye upon every officer and every department, little or no action of any kind was taken except such matters of routine and formal duty as could not be dispensed with. In a few days after the election of November, at which the People's party triumphantly elected every one of its candidates, with the exception of one or two of subordinate importance, the new officers, including an entire new board of twelve supervisors with E. W. Burr as president, a new police judge in the person of Henry P. Coon, and a new chief of police in the person of James F. Curtis, assumed office and inaugurated an era of good government which lasted for a number of years and, until partisan politics again gained the ascendancy, was as good perhaps as any city in the world ever enjoyed.

The new officers thus elected and those subsequently for the next six or eight years elected by the People's party were selected for their fitness; and as a rule they were honest and capable. They did not undertake office for the sake of what was to be illegitimately made out of it or as spoilsmen: on the contrary none received or expected more than very moderate salaries and many, such as supervisors and school directors, got no salaries at all. They were in general men of character and honor; and the government instituted and carried on by them was not and could not well in the nature of things have been otherwise than good. It would for some years and while the

¹ Stats. 1856, 175, 178.

influence of the vigilance committee lasted have been good, even without the consolidation act; but that also helped and assisted in making the new government a something almost unparalleled in the history of cities, a something exemplary, a something beyond which hardly anything could be desired in the management of a municipality. It was, to start with, a marvel of economy—and economy was at that time the one thing needful. The expenses of the city and county in 1857, the first year in which the new government had sway, were only three hundred and fifty-three thousand dollars as against two million six hundred and forty-six thousand dollars in 1855 or less than one-seventh. Partisan scheming, low trickery and disreputable working for corrupt and selfish purposes for the time found no encouragement. The trade of the political and other thieves, who had been living off of sinecures and fat municipal contracts, had for the time come to an end. There was to a considerable extent a cessation of what were called street improvements and there was a reduction and for a short period a discontinuance of the use of gas on the public streets; but there were street improvements enough and an active and efficient police obviated the necessity of so much gas as had been squandered before. Everybody felt safer and better satisfied; there was more security for life and property; persons could attend public meetings and go out in the night as well as the day without fear of attack or interference; it was known that the money paid for public purposes would be honestly and properly expended; and the ratio of taxes was so inconsiderable in comparison with what had previously been exacted and as good as thrown away, that everybody contributed willingly and no one complained or had any ground of complaint.

So admirably did the new system work and so well satisfied with it was the community that when the next election approached a new nominating committee was appointed; and its candidates were elected with the same comparative unanimity as before. In the election of 1858 the nominating committees of 1856 and 1857 joined and formed a new nominating convention; and the same general plan was followed for about eighteen years and in fact as long as the People's party as a distinct organization

lasted. All the proceedings of its nominating committees and especially the canvass of the characters of its candidates were intended to be secret, and measurably were so; but, so long as the party retained the confidence of the public, it made little or no difference. Nor while the party lasted, or at least until it had about outlived its usefulness and was about to fall to pieces, was there any reason to find fault or question its integrity. It too in time stooped, like other parties, to trickery and corrupt influences; but for about eighteen years it remained pure and kept in plain view the public good; and, with rare exceptions, the municipal offices were filled as well as it was possible under any circumstances to fill them. As before intimated, the city and county government became a model; all the departments worked in harmony for the general welfare; and there probably never was, nor probably well could be, a better governed municipality than the San Francisco of the old and genuine People's party days.

The new and improved condition of affairs and especially the hope and restored confidence of the community manifested themselves in various very significant ways. One was in the establishment and wonderful success of the first Savings and Loan Society, an institution designed for the secure and profitable investment of small savings. It was incorporated on July 23, 1857, and directly afterwards opened for business on the south side of Washington between Montgomery and Kearny streets. The conductors of it were all first-class men—men who were known and had been tried and could be relied on. Their plan was to receive deposits; invest them on real-estate and other safe, interest-yielding securities, and declare regular semi-yearly dividends of the profits to the credit of depositors. From the very start numerous deposits poured in upon them; and they were enabled in a very short time to declare dividends amounting to a rate of about one and a half per cent per month. It was soon found to be a very safe, convenient and profitable way of investing money; and small savings from all sorts of people flowed in on all sides. Moneys deposited could be drawn out on demand; but as a rule no more than ordinary calls or anything like a run was made, except on one or two occasions;

and they were always met—involving in one instance a short suspension—and confidence restored. So beneficial and so successful did the system of savings and investments thus started prove that on April 12, 1859, the original Savings and Loan Society was followed by another institution of the same kind under the name of the Hibernia Savings and Loan Society; on June 18, 1862, by the San Francisco Savings Union; on February 10, 1868, by the German Savings and Loan Society, and subsequently by various other similar institutions. Nearly all of these savings banks, and especially those named, have done an enormous amount of business, counting their deposits by many millions of dollars; and so far the faith reposed in them—an evidence of the faith felt in the country itself—has not been misplaced.

Another significant indication of revived confidence and the improved condition of affairs was the extraordinary success of the first industrial fair of the Mechanics' Institute, which was opened on September 8, 1857, in a pavilion specially built for the purpose on the lot now forming the site of the Lick House. The Mechanics' Institute as a society had been organized on March 29, 1855, and was in beneficent operation, with a good library, cabinet and reading-room. Its first fair, which was intended mainly as an exhibition of mechanic arts, was an experiment, and especially so far as the erection of a building for it was concerned. But the most sanguine expectations of its projectors were more than realized. It turned out to be much more interesting and instructive, particularly in showing unexpected advances in nearly all branches of human industry and altogether unlooked-for capacity for further advances—including extraordinary development in agriculture and horticulture and other cognate interests—than could have been expected. Few persons had an idea of the magnificent grapes of various valuable foreign varieties that could be successfully grown in California until they saw at this fair actual specimens in luscious profusion; and the same to a large extent was true of various kinds of fruits, vegetables and flowers. As something new and surprising, as well as beautiful and instructive, the exhibition attracted universal attention and, during the three or four weeks that it was kept open, it was exceedingly popular and always densely crowded. Not-

withstanding the heavy expenses, the receipts were more than enough to defray them and give a start to holding a fair of similar character nearly every year since then—the extent and comprehensiveness of the exhibitions gradually growing and enlarging as the city advanced from its fifty thousand population of those days to its three hundred thousand, with unlimited prospects, of the present.

Still another indication of restored trust and general prosperity not only in the city of San Francisco but throughout the state, which then much more than now depended upon the city, was the overwhelming majority at the election of 1857 in favor of recognizing the equitable indebtedness and maintaining the honor and credit of the state or what was popularly known as the anti-repudiation vote. On April 28, 1855, the legislature had passed an act for the construction of a wagon road over the Sierra Nevada mountains and authorizing the expenditure therefor of one hundred thousand dollars.¹ To this objection was made that the debt of the state already exceeded the constitutional limit of three hundred thousand dollars, beyond which the legislature could not create a debt without submitting it to a vote of the people.² A suit was thereupon commenced to enjoin the commissioners appointed under the statute from entering into any contract for the construction of the road on the ground that the act was unconstitutional and void. It appeared in the case that, notwithstanding the plain inhibition of the constitution, the state debt was at the time of the passage of the act several millions, exceeding at the end of 1855 three millions, of dollars. The population of the state at that time was about four hundred thousand people; the entire taxable property less than one hundred and four millions; the revenue for that year eleven hundred and fifty-five thousand, and the expenditures for the same year thirteen hundred and thirty-seven thousand—making an excess of expenditures over receipts of nearly one hundred and eighty-two thousand dollars. This was a terrible showing of reckless extravagance in the administration of state affairs; but such was the fact and there was no escaping from it. When the matter came before

¹ Stats. 1855, 180.

² Constitution of 1849, Art. VIII.

the supreme court at the October term, 1856, there could of course be but one decision; and that was to the effect that the wagon road act was unconstitutional and void and incidentally that the state debt in excess of the constitutional limit was illegal and invalid.¹

On April 28, 1857, the legislature, basing its action on the foregoing mentioned decision of the supreme court and acting in accordance with what seems to have been popular demand, passed an act to provide for the payment of the so-called equitable demands against the state, being the debts above referred to, by the creation of a funded debt for that purpose, and for the submission, in accordance with the constitutional provision which had previously been violated, of the question to the people. It provided for the issue of new state bonds, not exceeding in the aggregate the sum of three million nine hundred thousand dollars, bearing semi-annual interest at the rate of seven per cent per annum and payable in twenty years or rather on July 1, 1877. These bonds, for the payment of the interest and principal of which provision was made by annual taxation, were to be issued in place of outstanding civil bonds of the state issued under previous funding acts, controller's warrants with certain specified exceptions, and just and otherwise legal claims against the state duly allowed and audited. By subsequent section it was provided that the act should be submitted to the vote of the people at the general election of September 4, 1857, for ratification—those voting for it to write or have printed on their ballots the words, "Pay the debt" and those voting against it the words, "Repudiate the debt."² The submission to vote accordingly took place and resulted, as above stated, in an unmistakable determination on the part of the people to legalize the state debt and not to incur the disgrace of repudiation.³ The vote stood a little over fifty-seven thousand six hundred to pay the debt and a little over sixteen thousand nine hundred to repudiate it.⁴

The state debt, which was thus provided for and which had

¹ People vs. Johnson, 6 Cal. 499-506.

² Stats. 1857, 300.

³ Senate Journal, 1858, 20, 56.

⁴ California Register, 1859, 187.

illegally grown up and accumulated in violation of the constitution and by the end of 1856 exceeded three millions of dollars, commenced with an act passed January 5, 1850, for a loan for not more than twelve nor less than six years of two hundred thousand dollars to pay immediate demands on the treasury and the issue of bonds therefor on the best terms as to interest that could be provided. It was followed by an act, passed February 1, 1850, for a temporary state loan and authorizing the issue of state bonds amounting to three hundred thousand dollars, payable in six months with interest at the rate of three per cent per month and receivable for state taxes or dues. On February 27, 1850, another act was passed authorizing a loan of a million of dollars for twenty years and the issuance of bonds therefor bearing interest not exceeding ten per cent per annum payable semi-annually in New York. On April 29, 1851, the first state funding act was passed, which authorized the issuance of state bonds to the amount of seven hundred thousand dollars, drawing interest at the rate of seven per cent per annum and payable in New York, one-half on March 1, 1855, and the other half on March 1, 1861. Interest was to be payable semi-annually on the first days of January and July in New York. These bonds were to be receivable for all indebtedness of the state represented either by state bonds issued under the act of February 1, 1850, creating a temporary state loan or warrants drawn by the controller upon the treasurer. On May 1, 1852, an act was passed for the issue of state bonds to the amount of six hundred thousand dollars, drawing interest at seven per cent per annum and payable in New York on March 1, 1870, for the purpose of funding the state indebtedness accrued or remaining unpaid after the passage of the funding act of 1851 and up to December 31, 1852. An act supplementary to the last mentioned and designed to fund the debt accrued or remaining unpaid on December 31, 1852, and up to June 30, 1853, was passed May 17, 1853; and on March 16, 1855, a new act was passed to fund the debt accrued or remaining unpaid on June 30, 1853, and up to July 1, 1855, and authorizing the issuance therefor of bonds to an amount not exceeding seven hundred thousand dollars, bearing interest at the rate of seven per cent per annum and payable in New York or San Francisco on July 1, 1870. On

April 19, 1856, still another act was passed to fund the state indebtedness remaining unpaid on January 1, 1857, and authorizing the issue of bonds therefor to the amount of one million five hundred thousand dollars, similar to the others except in being made payable on July 1, 1875. All the outstanding bonds issued under the foregoing mentioned acts and which were more or less questionable under the constitutional inhibition against creating a state debt and the decision of the supreme court, were made receivable and fundable under the great anti-repudiation funding act, alike honest and honorable and creditable to the state and its people, of April 28, 1857.¹

In 1859 it was ascertained that the sum of three million nine hundred thousand dollars, the amount of bonds authorized to be issued under the funding act of 1857, was not sufficient to cover all the claims against the state entitled to be funded under the provisions of that law. There was an additional amount of such claims to the extent of a little upwards of one hundred and sixty-three thousand dollars. This fact being brought to the attention of the legislature in 1860, a new funding act, similar to the one of 1857, for an additional issue of bonds not exceeding two hundred thousand dollars in aggregate amount and to be submitted in like manner to vote, was passed on April 30, 1860.² This too, like the act of 1857, was approved by the people with great unanimity; and thus the civil debt of the state, recognized and assumed as valid and for which unquestioned and unquestionably legal and responsible interest-bearing obligations were issued, amounted in 1861 to a little upwards of four million and eighteen thousand dollars, exclusive of the so-called Indian war debt, amounting to about three hundred thousand dollars, which was claimed to constitute a just and equitable demand against the United States government.³

About the same time that California, by its recognition and assumption of its equitable debts notwithstanding their legal invalidity, thus manifested to the world its exalted character for honor and probity, it did another quite as honorable perhaps and

¹ See abstract of above mentioned acts in Hittell's Gen. Laws, 3178-3270.

² Senate Journal, 1860, 110; Stats. 1860, 352.

³ Senate Journal, 1860, 37; 1861, 30, 31.

certainly still more difficult thing in the prosecution and punishment for corruption and misconduct of Henry Bates, treasurer of state. This individual had been elected in the autumn of 1855. As state treasurer it became his duty to attend to the payment in New York of interest on various bonds issued under and in accordance with the state funding acts. There was to fall due in New York on July 1, 1856, as interest on the various bonds the sum of eighty-eight thousand five hundred and twenty dollars. Instead of taking the proper measures for the transmission of this money, Bates on or about April 12, 1856, without any order or warrant of the controller and without taking any security for the same, handed it over to the banking firm of Palmer, Cook & Co. of San Francisco, which neglected or refused to transmit it and did not pay the interest but on the contrary allowed it to fall delinquent. He was also charged with corruptly speculating for his own advantage in state funds and particularly with abstracting coin and bullion from the treasury and substituting therefor controller's warrants. He was further charged with corruptly combining with E. A. Rowe to cheat and defraud and with actually cheating and defrauding the state out of various large sums of money and with resorting to divers fraudulent practices for concealing and covering up his misdemeanors and deceiving the people and the state as to the true condition of the treasury.

Articles of impeachment, based on these charges, were formulated against Bates in the assembly; and on February 18, 1857, they were presented to the senate, which resolved to meet as a high court of impeachment for the trial of the accused on the following March 5. On that day it accordingly met, gave notice that it was ready to proceed and called the accused to its bar. He appeared, with Joseph W. Winans, Charles T. Botts and Edward D. Baker as his counsel, and put in a plea in the nature of a demurrer and made a number of technical objections; from which it appeared, among other things, that Bates had resigned his office of treasurer, that two criminal indictments had been found against him by the grand jury of Sacramento county for the same offenses charged by the articles of impeachment and that they were then still pending. On March 12, his plea hav-

ing been overruled, Bates, still urging his objections and protesting against the jurisdiction, gave notice that he would not further answer, whereupon the court, having gone into secret session, adopted a judgment by a vote of thirty-two against one convicting him of the charges preferred and adjudging, in view of his resignation, that he should be forever disqualified from holding any office of trust, honor or profit under the state of California.¹ About the same time, E. A. Rowe was arrested for contempt in refusing to answer questions propounded in reference to Bates and his affairs by the district court and by the grand jury of Sacramento; but he sued out writs of habeas corpus before the supreme court and managed on technical grounds to escape punishment, without answering the questions asked.² Subsequently several suits were commenced for an aggregate of some three hundred thousand dollars, and in several of them judgments were obtained; but nothing was in fact recovered; and the state in the end had to abandon all hope of getting back any of the defalcation either from Bates or any of his sureties.³ Notwithstanding these losses, however, the anti-repudiation funding act of 1857, and the public confidence secured by the just and honorable action of the people in passing it, almost immediately placed the state finances in a much more prosperous condition than at any previous period; for the first time in its history the state was able and began, as Governor Johnson somewhat bluntly expressed it, to "pay as we go;"⁴ the interest on the public debt was promptly met; there was no longer any fear or apprehension as to maintaining the state credit, and the bonds almost immediately took rank as high in the markets of the world as those of any other state in the Union.⁵

While the state was thus, by magnanimous recognition of its equitable indebtedness and the consequent rehabilitation of its honor and credit, recovering from its bedraggled, half-bankrupt and nearly moribund condition, brought upon it by previous reckless and extravagant administrations, a number of the cities

¹ Senate Journal, 1857, 296-303, 317, 408-410, 457, 462-465.

² Ex parte Rowe on habeas corpus, 7 Cal. 175-185.

³ Senate Journal, 1858, 21; Assembly Journal, 1859, 31.

⁴ Senate Journal, 1858, 16.

⁵ Assembly Journal, 1859, 24.

and counties were still burdened, by similar unbridled license and corruption, with such alarming amounts of local indebtedness as to threaten ruin to the prosperity and interest of the whole state. The city and county of San Francisco, on account of the economical changes wrought by the consolidation act, helped out and supported by the People's party and also by a system of funding all its old indebtedness,¹ was placed on a financial basis quite equal to that of the state; and its bonds were of comparatively equal value. But outside of San Francisco, many of the counties and cities were in quite as bad if not worse condition than they had ever been. As late as 1861, Governor Downey estimated their local indebtedness at about ten millions of dollars and added that they had very "little to show for this vast expenditure."² But, fortunately, the example of bringing public business down to something like honest and private business-like principles and management, set by the city and county of San Francisco in 1856 and followed to some extent at least by the state in 1857, pointed out the way of recovery; and by degrees, notwithstanding more or less extravagance and corruption continued to manifest themselves, they all worked out their respective problems; and every department in time got upon a solid, creditable, trustworthy, cash-paying basis.

Meanwhile, for a number of years after the admission of the state and in fact up to and until after the prosperous condition of public finances above adverted to had been reached, there had been hopes entertained that the United States government would turn over to the state what was known as the "civil fund of California." This fund, as will be recollectcd, consisted of revenues collected in the way of duties by federal officers in California prior to the admission of the state. It amounted to a little over two million seven hundred thousand dollars—a sum which would have gone far towards liquidating the state indebtedness. All the governors down to 1860 mentioned the matter in their messages to the legislature and urged the supposed justice and equity of the claim against the federal government;³

¹ See list of San Francisco funding acts in Hittell's Gen. Laws, 6649.

² Senate Journal, 1861, 31.

³ See Senate Journal, 1860, 57, 58.

and the legislatures of several of the early years responded by adopting joint resolutions indorsing the request.¹ It is doubtful whether in those early years, when recklessness and extravagance appeared to be the rule of administration, the payment of this money would have done any good or, in other words, whether it would have been properly applied and not on the contrary have retarded the approach of an honest and economic era. But however this may have been, there was no opportunity of ascertaining by trial. The general government did not see or recognize the justice or equity of giving up the custom-house revenues, which it had collected previous to the admission, any more than it could be asked to give up those collected after the admission. It was indeed doubtful, or at least doubted by many, whether there had in fact ever been any valid reason for the claim. At any rate after 1860 the demand, which had for ten years played so important a part in discussions of the financial concerns of the state under the designation of the "civil fund of California," was abandoned and not again urged or mentioned.

¹Stats. 1851, 540; 1852, 284; 1853, 318; 1859, 384.

CHAPTER II.

SQUATTERS AND SQUATTER TROUBLES.

IN the meanwhile as the state advanced, there was one peculiar drawback that played an important figure in retarding its progress, though it depended for its force and strength almost entirely upon that advance. This was the squatter interest. In the very early days land was of very little account. Prior to 1846 it could hardly be said to have any value, not so much as one cent per acre. Mexico did not sell it or offer it for sale, but gave it away to actual occupants and urged its citizens to take it and use it. From that year to 1849, with the exception of favored spots near pueblos, missions or springs, there was little improvement; and the value of the land bore no comparison with the value of the cattle and other stock that roamed over it. From 1850 to 1865 the standard price of good rancho-land in Santa Barbara county, which was more than an average for the state, was about one thousand dollars per square Spanish league of forty-four hundred and thirty-eight acres or less, than twenty-five cents per acre. In 1864, on account of the extraordinary drought of the preceding year, a number of fine ranchos in that county, with perfect titles and approved surveys, were sold at less than ten cents per acre. The wide-spread and very large destruction of live stock in the drought referred to was deplored at the time as a great public calamity. And to the old Californians, who owned the ranchos, it was a serious affair. They depended on the sale of the increase of their cattle to pay the expenses of their living; and, when the cattle were gone, the land itself had to be sold for their support. In this way many of the ranchos passed into the hands of American and other immigrants, who afterwards divided them up and sold them out in farming tracts of from forty to one hundred and sixty acres

or more, according to the pecuniary means of the purchasers. When thus cut into smaller pieces, the land was put to much better use than the raising of herds of inferior cattle; it was farmed and cultivated and yielded much larger returns than ever before, though in a different form; and thus what had been a calamity to a few was a blessing to the many and a great gain to the country in general. The same land, that had been considered dear at twenty-five cents an acre, rose in market value in a few years one hundred fold and much of it one thousand fold.¹

But notwithstanding the general low price of land in the early days, there was a great deal of unlawful and forcible squatting. This was more or less the case in all parts of the country covered by Spanish or Mexican grants, because nearly all the land considered desirable was embraced or claimed to be embraced within a grant. Most of the early immigrants and particularly those of the squatting kind, who had come from the then western states, had been brought up to look upon all unoccupied land as government property, in which they had an interest and upon which it was the policy of the government to invite them to settle; and they knew little and cared less about Spanish and Mexican claims. They therefore intruded in every direction; and some of them, very soon after the hoisting of the American flag, as has been seen, even took possession of Mission buildings and had to be ejected forcibly. Many of the same kind of people also looked upon the produce of the land, such as pasturage, wild oats suitable for hay and wandering cattle, as appropriable property; and much of the trouble experienced by the old land owners was on account of these appropriators. There were some of the immigrants that almost lived in their wagons and roamed about the country picking up unbranded calves. One of them was said to have lived in his wagon for twenty years and raised a family in it. Following the wagon, as he traveled from point to point, toiled an old cow and a lot of calves thus picked up, which as necessity demanded were exchanged for flour, bacon, sugar and coffee.² In the autumn of 1848 the attention of travelers was attracted to a large placard, representing a death's head

¹ Huse's Sketch of Santa Barbara, 14, 15.

² Nordhoff's California, &c., 196.

and crossbones, on a board nailed to a tree near the side of the road about eight miles from Stockton. Upon approaching, however, the investigator, instead of finding an account of some horrible murder or an invitation to a lynching party, was merely notified by Charles M. Weber that any person found interfering with the cattle upon that gentleman's rancho would be prosecuted with all the rigor of the law.¹ In the neighborhood of San Francisco, on account of the ready market for beef and veal, it was a very common custom to steal cattle all around the bay shores. In 1851 a resident of that region, of supposed good character and the father of a family of nearly grown daughters, was brought to trial for stealing six calves. He confessed the crime. On the trial the district attorney, deeming it useless under the circumstances to bring the witnesses of the theft, relied entirely upon the confession; but the court excluded it on the ground that it was not voluntary and acquitted the guilty man. He, like a number of others, had been making a business of stealing cattle for the market. Another man in the same business, who had been caught shooting a cow and cutting its throat, was acquitted on the ground that he had not asported the carcass—asportation being a necessary ingredient to constitute the crime of larceny.²

On account of the great number of squatters all over the country, including the cattle thieves and other depredators upon the property of the old rancheros and the comparatively small number of land and cattle owners, there grew up almost from the beginning a very large squatter interest, which in various places organized into associations and leagues and to a considerable extent influenced the political, legislative and judicial history of the state. In the absence of settled titles, actual possession, which was adjudged to constitute a presumption of ownership, was generally regarded as better than mere title or, as the doctrine was ordinarily expressed, possession was nine out of ten points of the law. This was particularly the case in the cities and towns, where a vacant lot could be seized, a ribbon-fence built around it and a shanty erected in the course of

¹ Ryan's Personal Adventures, II. 66.

² Burnett's Recollections, &c., 386-390.

a single night. In the morning, before anything could be done to prevent the intrusion, the squatter would be found in absolute occupation and ready to resist and defy ejection. With squatter juries and judges dependent upon squatter votes, it was almost, if not entirely, useless to seek redress in the courts; and all that could be done, until the number and influence of the land owners predominated over those of the squatters, was to employ force to resist force; and thus originated the squatter riots of the early days.¹

The most violent of these riots occurred at Sacramento in 1850. That city was laid out upon a Mexican grant of eleven square leagues, designated as New Helvetia, which had been made by Governor Alvarado to John A. Sutter on June 18, 1841.² When gold was discovered in 1848 and great crowds of miners began converging towards the American river, the embarcadero of Sutter's Fort or New Helvetia became an exceedingly lively and important place; and Sutter, as has already been mentioned, had a town laid out, which received the name of Sacramento. It was at first a town of tents, sojourners on their way to and from the mines and merchandise in transit. Its limits at that time, laid out into blocks, lots and streets, included about one mile square. In the early part of 1849 substantial buildings began going up; and in 1850 the town had ten thousand inhabitants; and one building, known as the City Hotel, the frame of which had formerly been that of a sawmill erected by Sutter, yielded rent at the rate of thirty thousand dollars per annum.³ In the autumn of 1849 there were several thousand immigrants settled on the vacant lots of the town, which had been sold by Sutter and his grantees to other persons; and, asserting that Spanish and Mexican grants were frauds and that no one man had a right to monopolize so much land as Sutter claimed, they declared their intention to retain their lots and resist any and all attempts to dispossess them.⁴ On the other hand the owners of the title had ordered them off and in one instance the city

¹ Annals of San Francisco, 365, 366.

² See Ferris *vs.* Coover, 10 Cal. 589.

³ Bayard Taylor's *El Dorado*, 219, 220.

⁴ Bayard Taylor's *El Dorado*, 279.

authorities had sent a posse, forcibly ejected a squatter and destroyed his shanty. On Saturday evening, December 1, 1849, a squatters' public meeting was held and great indignation expressed in reference to the action of the city officials. On Tuesday evening, December 4, an opposition or so-called "law and order" meeting was called. A speaker's stand had been improvised out of several dry-goods boxes, piled up against the side of a drinking-saloon and bowling-alley, called the "Gem" on K street; and a board nailed up overhead supported a row of candles, which burned without quivering in the still air. The crowd collected was a large one. After the usual preliminaries, a series of resolutions were presented to the effect that the squatters were acting lawlessly and in contempt of the authorities; that the city council should at all events be sustained, and that, in order to satisfy everybody who had any doubts upon the subject of Sutter's title, a committee should be appointed to proceed to Monterey and procure a copy of the grant attested by the governor of California. These resolutions, upon being read, produced loud disapproval and expressions of indignation. It was soon evident that the squatter element predominated and great confusion ensued.

At this juncture a lawyer, afterwards widely known in the state, named James C. Zabriskie, rose and commenced to speak, but was interrupted by cries of, "Your name? What's the speaker's name?" "My name," he answered, "is Zabriskie; and I expect to fare as the old woman Kate did when her husband went home drunk. 'If I find Kate abed,' said he, 'I'll lick her: what business has she to go to bed before I get home? And if I find her up I'll lick her: what business has she to be sitting up wasting fire-wood and candles?' And so," he continued, "I expect to catch it either way." He then went on to say he had made up his mind that every man had a right to express his sentiments, and he was determined to express his. Upon looking at the hand-bills, calling the meeting, he saw that the object was to sustain law and order in the community; but he considered it an insult to the people to suppose any were otherwise inclined. As to the contemptuous allusion to "squatters," contained in the preamble of the resolutions, which had just been read, "who,"

he exclaimed in an impassioned manner, "who carried the stripes and stars, the institutions and the laws of our land into the far west and have now borne them even to the shores of the far-off Pacific?" A loud reply from the crowd shouted back, "squatters!" Zabriskie then moved that the preamble should be rejected; and his motion was carried almost unanimously. And so he went on with the resolutions, moving the adoption of some, the rejection of some and the amendment of others—most of which motions were carried, making an altogether different set of resolutions from those originally proposed. But on the subject of sustaining the authorities, which he advocated, he found much opposition and came near realizing the fate of the old woman, whom he had mentioned, and catching it on both sides. Though he contended that a man might squat where he pleased and leave for nobody who could not show a better title, he nevertheless maintained that, as soon as the judiciary should be appointed, it would be for the courts to decide as to the validity of titles; that the true owners would then get their own, and that in the meanwhile all parties would be benefited by the land being brought under cultivation or otherwise improved.¹

From that time on until towards the end of the summer of 1850 squatter meetings continued to be held; and squatter harangues became more and more violent and incendiary. They were at first considered as mere vaporizing; but they in time produced an effect. Among those who held under Sutter was Samuel Brannan, one of the most active and influential men of the day; and there were many others, including the capitalists and politicians, who were on the side of the grant; and it was principally on their account that the city and county authorities were also on that side. For this reason the officials became very obnoxious to the squatters; and in their meetings the speakers, who could say the severest things about the sheriff and the mayor and the common council and everybody connected with them, was the most applauded.² At the same time force continued to be used. On June 21, four or five persons, holding under Sutter, demolished a house, which had been erected by a

¹ Journal of Moses S. Prime, MS. Bohemian Club, San Francisco, 88-90.

² Prime's Journal, &c., 92, 93.

squatter on a lot belonging to one of them; and the next day twenty-five or thirty other holders under Sutter made a raid on other lots in the possession of squatters. Repairing in a body to the water front near J street they partially destroyed a squatter's house and then shoved what was left over upon the tent of another squatter on an adjoining lot. And so they went on destroying several squatter houses and fences in that neighborhood. A number of citizens witnessed the demolition and offered no opposition or even remonstrance. But a number of squatters also collected and by frightful threats and vociferous shouting drew an immense crowd and created a tremendous excitement.¹

Once in a while a squatter was met with who was open to reason. Much of the ground which had been squatted on had been cultivated by Sutter up to the time his workmen left him in 1848 to go to the mines and dig for gold. One of the squatters upon ground of this character, a few days after the great excitement last mentioned, was asked upon what theory or by what authority he expected to hold his lot. He answered: "By pre-occupation and pre-emption of course." "But look here," replied the questioner, "if you are the pre-occupier, what makes the ground so uneven?" "Well," rejoined the squatter, "it looks as if it might have been ploughed." "Exactly," continued the other, "and if so, don't you think the man who ploughed it has got the better right to it? Is he not the oldest settler?" And upon learning as an unquestionable fact that Sutter had for years been settled upon and actually cultivated the land, and concluding that the possessory and pre-emption laws were not intended to, and would not, reach his case, he immediately pulled up his stakes and moved off.² But the large majority of the squatters knew and cared nothing about any theory or authority that would justify them and continued to hold with the expectation, by persistent and harassing opposition to the title-holders, to frighten them off or worry them into abandoning their claims. On the evening of July 1, a squatters' meeting was held at the Herkimer House on Fourth street, the special object of which was to raise a fund and employ counsel to make a combined resistance to all suits

¹ Upham's Notes of a Voyage to California, &c., 333, 334.

² Upham's Notes, &c., 334, 335.

brought to enforce the Sutter title. The chairman and chief agitator at this meeting was a certain Dr. Charles Robinson from Fitchburg, Massachusetts. He was particularly bitter against the common council, which he charged with undertaking to legislate in favor of Sutter's title, though it clearly had no power to do so. He was not chary of vituperation. He said it was destitute of common sense, called it fool, pronounced it too low to be respected. As for himself, he looked down upon it—a great ways down—down so low that he could not see it—down so low that it was out of sight of all decent men. On the other hand he appealed to the sacred right, as he called it, of every man to have a homestead and his sacred duty to defend it. He however believed in being a big squatter instead of a small one. It was just as easy, he said, to squat on one hundred and sixty acres as on one acre; and what he should not need of it he would give to the poor squatters who would be coming along by and by. And in conclusion he would add that it was just as easy to defend a big piece of land as a small piece—and much better for the squatter to take it than to allow the land grabber to sell it.¹

James McClatchy was another promoter of the squatter movement and, when he warmed up, was almost as bitter as Robinson. As subscriptions for making a fight were not plentiful, he offered himself to go about the country soliciting, "if he could steal somebody's horse or borrow one." He said he would go Sunday, for it was a good day and collecting squatters' subscriptions a good deed. Robinson offered his own horse, stating that the animal had once made three hundred dollars on a similar excursion. At a subsequent meeting, held on July 24, Robinson stated that four lawyers had been employed, each of whom was to receive one thousand dollars, and that all collections over four thousand dollars were to constitute a common stock for the benefit of the settlers in general. As for McClatchy, who was to receive five per cent of his collections for his services, he facetiously remarked that he was willing to trust him in town, but he would not be responsible for him when he got out into the country. Upon this McClatchy again rose and said that he would much rather fight than collect subscriptions any day. "If

¹ Upham's Notes, &c., 335, 336.

the speculators want to fight, I am for giving them battle—and devil take the hindmost. Let us put up all the fences pulled down and also put up all the men who pull them down!"¹

On August 13, McClatchy and one Michael Moran were arrested for resisting or attempting to resist the sheriff in the execution of a judgment of forcible entry and detainer by the county court against some of the squatters. Being taken before a justice of the peace, they were bound over to answer the charge and, in default of two thousand dollars bail, committed to and confined in the prison ship. On the next morning, as the sheriff was executing another writ on Second street, a party of about thirty squatters assembled under the leadership of a man named John Maloney. He was mounted on a horse and armed with a sword and pistol; and of the others, some had pistols and some guns. They at once proceeded to the property seized by the sheriff and retook it; and then, after a harangue by Maloney, all marched towards the prison ship, with the avowed intention of rescuing and releasing the prisoners confined there. As soon as the city authorities were informed of the facts, Harden Bigelow, the mayor of the city, issued a proclamation calling upon the citizens to take up arms for the defense of the laws. He then mounted a horse; and, placing himself at the head of the citizens, numbers of whom seized their arms and assembled, he led them to the water front. At this the squatters, after some hesitation and without making any attempt upon the prison ship, marched up J street, preceded by Maloney with drawn sword. They were followed by a large crowd hooting and jeering at them. As the mayor rode up to where the crowd seemed thickest, he was asked what his orders were; and, upon his answering that he wanted to arrest the men who were in arms against the lawful authorities, three cheers were given for him; and the citizens replied that he should lead on and they would assist in making the arrests.²

At the corner of Fourth and J streets, the squatters, finding themselves followed up by determined men, halted and turned around. Mayor Bigelow and Sheriff Joseph McKinney

¹ Upham's Notes, &c., 337-341.

² Upham's Notes, &c., 341-343.

rode up and commanded them to lay down their arms and surrender as prisoners. As they made the demand and the citizens crowded forward to sustain them, Maloney ordered his men to fire, crying distinctly, "Shoot the mayor; shoot the mayor!" At the word they fired. Some shot high, probably intentionally; but others aimed lower and with fatal effect. A general fight ensued, in which there was firing on both sides. After the squatters fired their guns, they drew their pistols; but the citizens rushed upon them, when they broke and dispersed. At the first fire Mayor Bigelow, who had shown himself a brave and efficient officer, fell from his horse, at the same time calling out to the citizens to protect the city, as he was disabled and could do no more. The mayor's wounds were dangerous, but perhaps not necessarily mortal. J. M. Woodland, the city assessor, was killed. On the side of the squatters, John Maloney, their leader, said to have been shot by Benjamin F. Washington, was killed; also a man named Jesse Morgan and another man, whose name was unknown. Among the wounded, besides Mayor Bigelow, were on the part of the citizens J. H. Harper of Independence, Missouri, who had exhibited great bravery in the fight, and several others, while on the part of the squatters was Dr. Robinson, the agitator. The next day Sheriff McKinney and about twenty other persons on horseback proceeded out past Sutter's Fort and the Five Mile House to the Pavilion, at which place, learning that there was a party of squatters at a way-side drinking house called "Allens," two or three miles further on, he divided his men into six divisions and directed them to approach the house from different sides. Placing himself at the head of one of the squads, which was known as the division of A. M. Winn, a newly-fledged brigadier-general of militia, who had just been appointed by Governor Burnett, the sheriff galloped up and, upon reaching the house, in a jocose tone ordered his men to dismount and take a drink. Entering the house with a few companions, while the others were hitching their horses, he found a party of eight or ten squatters ready to receive him and ordered them to lay down their arms. They answered with a volley. A general melée ensued and for a few minutes a brisk firing was kept up. In the confusion McKinney got outside of the house; but, as he

was standing near the door, a man on the inside fired a load of buckshot into him; and, after exclaiming several times that he was killed, he expired. Captain Radford of the sheriff's party was shot in the forearm and severely wounded and Captain Hamersley injured by being thrown from his horse. Of the squatters two, Kelly and Henshaw, were shot dead; two were wounded, and four taken prisoners and marched off to the Pavilion.¹

As soon as news of what had thus taken place reached the city, several parties of ten or twelve citizens each proceeded to the spot, more probably out of curiosity than as re-inforcements; but, once upon the ground, Brigadier-general Winn formed them into line, made an address and then maneuvering them around an omnibus containing the sheriff's body, Captain Radford and the prisoners, marched into the city. There the general came out in full feather. Two new military companies had been organized, one under Captain Jeremiah Sherwood and the other under Captain David McDowell, which together constituted a sort of army; and the next day two companies, one under Captain William D. M. Howard and the other under Captain William P. McCormic, came up from San Francisco in response to a call of very urgent character. Upon the arrival at night of the San Francisco companies in Sacramento and before they had had an opportunity of ascertaining the true situation of affairs, General Winn enrolled them into service. But the next morning, as it clearly appeared that there was no use for them and that their enrollment was a farce, they were discharged and returned to San Francisco. They were apparently so much disgusted with their Sacramento experience that they never presented to the state any bill for their services—very unlike the general who enrolled them and who at the next session of the legislature not only preferred a long list of claims on his own account but began a career of making claims that became chronic.²

On examination of the wounds of Mayor Bigelow, it was found that one of the balls that struck him had so fractured the bones of his thumb as to render amputation necessary. The

¹ Upham's Notes, &c., 343-347.

² Upham's Notes, &c., 348-350; Journals of Cal. Leg. 1851, 718, 719; Senate Journal, 1854, 533-538.

operation was performed; but unfortunately mortification set in, and the patient was then removed to San Francisco and had his arm amputated. After lying there some time, he was attacked by cholera and on November 27, 1850, died universally regretted. His body, which was sent to Sacramento for burial, was escorted to the Sacramento boat by all the city officers, military companies and civic societies; and Mayor Geary pronounced over the remains a eulogy in laudation of his character and public services. A few days afterwards a bill was presented by James W. Stillman of San Francisco to the common council of Sacramento, which as a demand for remuneration probably exceeded any claim ever made even by a squatter. It was for attendance on Mayor Bigelow for five weeks during his last illness. The first charge was four hundred and eighty dollars for cash advanced for sundries; then came one hundred and sixty-five dollars cash paid for washing clothes soiled by the wounds; then five hundred dollars for five weeks' use of the best room in Stillman's house; then five hundred dollars for sundries, bandages, extra candles, extra wines and refreshments for Mr. Stillman and other attendants at night, and finally another five hundred dollars for Mrs. Stillman's attendance. The entire bill amounted to two thousand two hundred and thirty-eight dollars. It was of course not honored; but as a claim it was unique, significant of the times and unparalleled except perhaps by a bill afterwards presented to the legislature of 1854 by General Winn for what he called his benevolence to the indigent sick in 1849 and 1850.¹

The claims of the squatters at Sacramento, though advanced with more violence and in a case where there could be no reasonable question as to the validity of Sutter's title, were not much more extravagant than those made in various other parts of the state. In San Francisco, except in the actually built-up portions of the city, squatting became and for years continued to be a very usual mode of acquiring and holding land. Not only did men squat for themselves; but some would squat for others. For twenty years a number of rough characters made a business of hiring themselves out to take or hold forcible possession for

¹ Upham's Notes, &c., 350; Annals of San Francisco, 299; Journal of Senate, 1854, 533-538; Journal of Assembly, 1854, 605, 642.

any person who would employ them. Each one had what he called his squatting implements, consisting principally of his blankets and fire-arms. Sometimes there would be encounters between rival parties; and in more than one instance a man or two was killed or wounded; but by degrees the different bands got to understand one another and would combine, while pretending to wage war and filling the air with the most terrible threats, to draw extra pay from their respective employers and sell out to those who paid most. Once in a while the owners were too much for them. In February, 1850, for instance, Theodore Shillaber received a lease from the United States authorities of a piece of government reserve land at Rincon Point. Upon attempting to take possession, he found it occupied by squatters, mostly from Sydney, who refused either to vacate or to pay rent. Upon complaint to this effect being made, Captain Edward D. Keyes, then in charge of the military at the presidio, marched a company of twenty United States soldiers to the spot, drove the squatters off, demolished all their shanties and tents and placed Shillaber in possession.¹

In much the same manner all around the bay of San Francisco and in most all portions of the country, where Spanish or Mexican grants existed, there were squatters and squatter claims. In some instances, doubtless, the squatters were right; and in some, where they were not right, they were not intentionally wrong. The United States government certainly encouraged and invited settlement upon the public lands; and wherever there was a fair presumption that the land settled upon had not been granted, there was some justification, greater or less according to circumstances, for the settlers to take possession of it. On the other hand many of the old grants, being for limited quantities of land within larger exterior boundaries, of course included much unascertained and unlocated government land; and, though the courts afterwards in 1856 and 1858 decided that the owner of a grant was entitled to the possession of all the land within these exterior boundaries until segregation was made, yet the earlier decisions held that such grants were not sufficient to maintain ejectment or, in other words, that squatters had a right to settle

¹ *Annals of San Francisco*, 267.

upon such grants and maintain their settlements until there should be an adjudication—first, that there was a valid grant and, second, that the grant actually included by approved survey and location the land claimed. Those early cases, which were called "squatter decisions," indicated that the supreme court of the state, as then constituted, leaned to the squatter interest, and it continued to lean in that direction until the supreme court of the United States decided to the contrary and virtually overruled them.¹

The circumstances of the early days, as has been seen, encouraged the squatting interest. In the first place the earliest immigrants were from the then frontier states and had been educated in the supposition that all unoccupied land was public and open to settlement. In the next place the miners, who to a great extent instituted the first American customary laws of the country, recognized as a fundamental principle, applicable from one end to the other of the mining regions, that the ground everywhere was subject to examination and working and that the first occupant had the incontestible right to maintain and continue his occupancy as long as he actually worked it. By degrees, as the mining population increased, there were restrictions adopted as to the proofs of occupation, the extent of claims that could be held, and the conditions under which they could be protected against interference and encroachment—these restrictions being usually formulated in what were known as mining rules and regulations. But, rightly considered, these restrictions were designed rather to preserve than to destroy the right of any person who was desirous of occupying and working ground to do so in every case where another person was not actually occupying and working it. In the third place, owing to the want of accurate surveys in the Spanish and Mexican times, and also on account of the old practice of granting specific but undefined quantities of land within much larger exterior boundaries, there was almost always more or less uncertainty as to what particular land was granted and what belonged to the public domain. In these cases it was always to be expected

¹ *Leese vs. Clark*, 3 Cal. 17; *Vanderslice vs. Hanks*, 3 Cal. 47; *Gunn vs. Bates*, 6 Cal. 263; *Ferris vs. Coover*, 10 Cal. 589, 621.

that the claimant would endeavor to get the most valuable land that he could within his exterior boundaries, while on the other hand, if there were squatters, they would be sure to exercise all the influence they could to force the location in such directions as to leave them out. And the possibility of exercising influence of this kind also had its effect in encouraging their settlements. But the main and most powerful reasons for the extensive business of squatting that prevailed were the determination to make money in any and all events without reference to means, the increasing value of land, the worth even temporarily of its use and occupation, and the chances in the end either of worrying out or compromising on favorable terms with the true owner.

Some very remarkable cases of squatting occurred in the very early days in the mining regions. The miners as a class were, as has been seen, very restless. They were almost always discontented and always longing for what they called "big strikes." They were dissatisfied with their gains, though they could lay up more in a month than they could have accumulated in a year at home, as long as there was a possibility of finding anything better. They were always seeking newer and richer diggings. Whenever anybody in his wanderings would find ground that "prospected" or "panned out" better than usual, there was always a rush to the spot; and the manner in which the adventurers from different quarters would come together and jostle one another for the choice places was said to resemble the collecting of vultures around a choice find. Almost immediately a mining town sprang into existence and, while some of the newcomers labored soberly and industriously in digging gold, others renewed the swearing, drinking, gambling, fighting and pandemonium in general of the old places they had left. After a very little experience of what was to be expected, it became usual in almost all cases of new camps to adopt rules very early and sometimes in advance, giving the size of claims that would be allowed and the amount of work and kind of notice necessary to hold them. As a general rule it was required to define a claim by stakes and a written notice, posted in a conspicuous place, that the spot was held for mining purposes. If the claimant did not work the spot, the rules usually obliged him to

renew the notice every ten days; and if he did not do so, any other person had the right to "jump" it or, in other words, squat upon it. A practice grew up in most of the mines to allow an individual to hold as many claims as he pleased, provided he kept a man at work in each, for the workman was considered as representing and standing in the place of the owner. But in all cases of this kind, the workman could hold or rather "jump" the claim for himself, if he desired; and where ground so held proved to be exceptionally rich, cases of this kind sometimes occurred. As a general rule, however, the man, who was willing to hire himself out, preferred to receive his wages, usually six dollars per day which he was sure of in any event, to running the risk of the claim proving worthless. Thus, though the holding of claims by proxy was not uncommon, there were some cases of difficulty, which gave rise to arbitrations and furnished business for "miners' meetings," in which matters of this kind were considered and adjusted.¹

In San Francisco for many reasons the business of squatting became a trade and in some cases a very lucrative trade. There was a very early belief, which proved to be correct, that almost all the Mexican grants claimed to cover portions of the city were forgeries or fraudulent. It was claimed by some, and the courts afterwards adjudicated, that there had existed either at the presidio or the Mission Dolores or the village of Yerba Buena—it practically made no difference which—a sort of municipality, known to the old Spanish and Mexican laws as a pueblo or town and entitled as such to four square leagues of land, in which all the inhabitants had an interest. On the faith of this claim, and on the authority of the laws governing pueblos, the old alcaldes and other municipal authorities had made many grants of town lots; and, as to these town lots, it was understood, if there was a pueblo, that the grantees were absolute owners by written title to their lots; but, as to all the extensive tracts of land not so granted, that all the inhabitants and particularly the occupants were the owners or, in other words, that the title was held in trust for the use and benefit of all the inhabitants. On the other hand, if the alleged grants were all invalid and there was no

¹ Pioneer Magazine, Vol. III, 306, 307.

pueblo title, it would follow that all the land would be open and vacant, and everybody justified in settling wherever he could make a lodgment. Under these circumstances the old adage that possession is nine-tenths of the law was not only frequent in the mouths of the community, but it was to a great extent the principle upon which nearly everybody acted.

Squatting therefore commenced very early in San Francisco and continued rife until titles became substantially settled by the decisions of the courts in favor of the so-called pueblo and the subsequent acts of congress of 1864 and 1866, relinquishing and granting to the city and county of San Francisco all the lands included within such pueblo limits in trust for the lot holders and occupants on such terms as might be prescribed by the legislature of the state. There was consequently hardly any part of the city and county that was not at some time seized and held by squatters; and squatter fights, not unfrequently bloody and sometimes fatal, were not unusual. Immediately after the great fire of May 3, 1851, and while the smouldering embers were still smoking, a number of the lot-owners felt compelled to run fences over the hot ashes so as to prevent their property from being jumped or squatted upon by the numerous and hungry crowd then engaged in that kind of business.¹ Nor were these precautions unnecessary; for in various places in the state advantage had been taken of fires to seize and squat upon property left vacant by the flames. An attempt of this kind was made at a great fire, which occurred on June 18, 1852, at Sonora in Tuolumne county; but the better class of citizens armed themselves and prevented the outrage; and the public spirit, thus called forth, led to meetings which brought about a widening of the streets and the erection of much finer buildings than had been swept away by the fire.²

In 1853, principally on account of the extraordinary rise in the price of real estate, squatting in San Francisco and its neighborhood became more frequent and daring than before. It never assumed so threatening an aspect as in Sacramento; there never was what could properly be called a riot; but there were

¹ Mrs. Bates' *Incidents by Land and Water*, 106.

² *History of Tuolumne County*, 87-89.

a number of bloody fights—and some fatal ones. Of the former character was one that took place on July 20, 1853, and arose out of the ejectment of a squatter, named Redmond McCarthy, from a lot belonging to Rodman M. Price on Mission street, in the course of which John A. Freaner, the deputy sheriff who was sent to execute the writ, and McCarthy, the settler, were both shot and seriously wounded. On August 1, 1853, a squatter difficulty occurred between Dr. John Baldwin and Joseph Hetherington about a lot on Greenwich street between Kearny and Dupont. Baldwin was in armed possession and was putting up a fence upon it when Hetherington came up, shot and killed him, as has already been stated. About the same time Hiram Parsons, one of the purchasers at the Peter Smith sales of 1851, undertook to take forcible possession of various lots on the water front near the corner of Vallejo and Front streets, when he met with forcible resistance and the result was the fatal shooting of one or two of his employees, the tearing up of a number of piles he had driven and the casting adrift of various scows employed by him in his squatting work. In the same year 1853 a regular squatters' or, as it called itself, a "pre-emptioners' league," with constitution, officers and stated sessions, was formed in Alameda county for the purpose of organized resistance to grant owners or, as the object was euphemistically worded, for mutual support and protection in the defense of pre-emption claims. The members included many of the citizens and numbers who have since proved to be among the most substantial men of the county. Only settlers within the county were eligible. Each one, who joined, was required to pay an initiation fee of five dollars and subscribe an obligation or covenant, by which all bound themselves, each to the others and all to each, that they would make no overtures to the grant claimants and would reject all that might be made to them, until such overtures should have been submitted to and approved by the league; that they would contribute their share of money in support of the league, and that they would at all times hold themselves in readiness to aid and assist one another in defending their houses and homes from the grasping avarice of the land speculators. And, in accordance with the principles thus announced, they gave the grant owners

so much annoyance for a number of years that the latter in the end were very glad to compromise and sell out cheap; after which the new proprietors were as bitter opponents to squatting as the original grant holders had ever been. Looking at the subject from an entirely different point of view, they saw it in entirely different proportions.¹

In 1854 a number of squatters took possession of a one hundred-vara lot belonging to Captain Joseph L. Folsom at the east corner of Mission and Third streets and erected a squatters' shanty on it, lined inside with three-inch planks. They appeared to be so completely fortified that Folsom, unfortunately, considered it easier and cheaper to buy them off than to fight them. The result was that almost immediately after receiving their pay for leaving one lot, they squatted on another belonging to the same person at the west corner of Howard and First streets, upon which they moved a ship's galley and called it "Fort Larkin" after one of their leaders. They supposed they had scared Folsom and that he would buy them off again and perhaps many more times. But they were mistaken in the man. He would not do so imprudent a thing twice. On the contrary he made up his mind to fight and, being a man of determination and unflinching bravery, he did not hesitate to act. Several fights took place, in one of which George P. Smith, an employee of the Folsom party, was killed and two squatters, named John Larkin and James McNabb, severely wounded; and the outcome was that the squatters were eventually driven off, having made much less by their lawlessness than half their trouble would have netted if expended in any honest occupation. A few days after the killing of Smith a squatter difficulty occurred on a lot belonging to James Lick on Green street between Stockton and Powell; but the trouble there seems to have been between rival squatters, one party being John Murphy and his wife and the other Thomas Mooney and James Duffy. A fight took place and shots were exchanged, one of which struck Mrs. Margaret Murphy and inflicted a wound of which she afterwards died. But no one

¹San Francisco Herald of July 21, 1853; Annals of San Francisco, 456; Constitution and Minutes of "Pre-emptioners' League of Alameda County" MS.

could tell who killed her and no one was punished for the homicide.¹

The squatting at Fort Larkin and the shooting of Smith, which took place on June 4, 1854, caused so much alarm that a meeting of prominent citizens was immediately called and on June 6, 1854, a sort of anti-squatter league was organized, known as an "association for the protection of property and the maintenance of order." At least a thousand active and determined men joined it, pledging themselves to one another to put an end at every hazard to the lawlessness which had assumed such threatening proportions. They did not design, like the vigilance committee, to take the law into their own hands, but rather to form a special police to aid the authorities in executing and vindicating the law. And the knowledge of their organization and the fact that there could be no doubt about the vigor and celerity of their action, if it should be provoked, very soon put a stop for the time to squatter troubles in San Francisco.²

But in the meanwhile the politicians had become aware of the large squatter interest in the state and begun to bid for it. John Bigler, the governor, in his message to the legislature on January 4, 1854, had taken occasion to speak of the squatters, whom he termed "bona-fide settlers," as an enterprising and useful portion of the people and he recommended legislation in their favor as absolutely necessary, just and proper. He thought that where settlements had been made in good faith, under the impression that there existed no title adverse to that of the government—which might obviously be made to include all cases—compensation should be allowed for all necessary and substantial improvements in case of ejection. And for the purpose of still more forcibly defining his position, he went on to say that there was no good reason why the government should require from the settler in California the payment of one dollar and a quarter per acre while in Oregon it donated land free of charge. The discrimination thus made adverse to the settler in California, he

¹San Francisco Herald of June 5 and June 9, 1854; Annals of San Francisco, 540, 541.

²San Francisco Herald of June 5 and June 6, 1854; Annals of San Francisco, 541, 542.

pronounced exceedingly unwise and unjust; and he trusted that congress would reconsider its action and donate the public domain in California, as well as in Oregon, in small tracts to actual settlers.¹ No such legislation, however, as Bigler recommended, took place until 1856, after he had been relegated to the quiet of private life. On March 26 of that year an extraordinary statute was passed, which provided that all lands in the state were to be deemed and regarded as public until the legal title should be shown to have passed to private parties; that in case of a patent from the United States or from the state, the right of the patentee should be deemed to begin at the date of the patent and he should not be entitled to recover for the use or enjoyment of the land prior thereto; that in all actions of ejectment the defendant might set up the value of improvements made by him, including the value of growing crops, which as well as the value of the land without improvements was to be found by the verdict; that in case of judgment for plaintiff he was to have the option of paying defendant for his improvements and taking the land or, if he declined, defendant was to have the right to retain it, paying the value of the use and occupation after the patent. Such were the general provisions of the statute styled an "act for the protection of actual settlers and to quiet land titles in this state;" and they were further strengthened in favor of the settlers by shortening the limitation for bringing suits of ejectment to two years after the accruing of the cause of action and declaring that the cause of action was to be construed as commencing at the date of the issuance of the patent. At the January term, 1857, of the supreme court, however, the statute was pronounced unconstitutional and its intended bad effects were prevented.²

The passage of the act of 1856, notwithstanding its unconstitutionality and in some sense on account of its very unconstitutionality, indicated the great strength of the squatter interest. It was indeed a power in the land and was felt in all departments of the administration. There were not only squatter governors and legislators, but there were squatter courts and squatter judges. Even on so plain a proposition as the unconstitutionality of the

¹ Senate Journal, 1854, 24-26.

² Stats. 1856, 54; Hittell's Gen. Laws, 6800; *Billings vs. Hall*, 7 Cal. 1; *Lathrop vs. Mills*, 19 Cal. 513.

squatter statute of 1856, David S. Terry, one of the supreme judges, held it valid in a dissenting opinion. As for squatter lawyers, they boasted of their ingenuity in worrying grant owners and "euchring" them out of their property. And even in cases which it was impossible to defeat, they frequently succeeded in making the adjudication, first of the confirmation of the title and afterwards of the survey and location of the grant, so costly that it was hardly worth the trouble and expense. All over the country, wherever a grant covered very rich land and there was any uncertainty as to its location and particularly where it was a grant within exterior boundaries and the surplus was large, there was more or less controversy and frequent fighting. It was so especially in the northern part of the state. When a grant of very valuable land, generally supposed to be valid, was finally rejected so as to throw it back into the public domain or when very valuable land was excluded by the finally approved survey, there was always a rush of squatters and a strife to secure the best spots. Of the former class was the case of the so-called Suscol grant in Solano and Napa counties, which was finally rejected by the supreme court of the United States; and, as the result of the decision, the whole country for many miles was covered by squatters' shanties and other evidences of possession in one hundred and sixty acre tracts. Of the latter class was the Sobrante grant in Contra Costa county, which when located left out or was supposed to leave out large and valuable tracts of land that were immediately squatted upon and in the strife for them led, as in many other cases, to bloodshed and sometimes to homicide. In the Suscol case, however, the original grant claimants, by some sort of extraordinary influences exerted at Washington, managed to procure an act of congress in 1863 giving them and those who had purchased under them a preferred right to preempt the land and thus deprived the settlers, who in this case if in any were acting in good faith, of their locations and the rights guaranteed, or supposed to be guaranteed, them by the pre-emption laws of the United States.¹

But if the original owners of California lands, whom the United States had solemnly by treaty and otherwise undertaken

¹ 12 U. S. Statutes at Large, 808.

to protect, were badly treated and to a certain extent despoiled, first by the government in its methods of adjudicating their claims and next by the squatters and squatter lawyers in harassing them with forcible entries and detainers, they had other and still greater dangers to run. These last mentioned dangers were the result of and were necessitated by the others. They were simply their own lawyers and agents. When the grants belonged to exceptionally bright men, there was some likelihood of prudence of management; but the old Californians as a rule were an ignorant and improvident race and no match whatever for the sharpers, many of whom made a business of taking pay for their services in land and, in so doing, rating the one ridiculously high and the other ridiculously low. Another favorite mode of despoiling the old rancheros was by loaning money to them at ruinous rates of interest and taking mortgages on their ranchos. A not unusual rate of interest was five or six per cent per month, compounding monthly. With such a mortgage, it took but a short time to create a debt sufficient to equal the value of any rancho; and the next move was for the despoiler to foreclose and buy the property on the foreclosure judgment. It was widely said, and as widely believed, that many of the schemes put in practice by mortgagees and others, who succeeded in getting hold of large ranchos, were robberies; and no doubt many of the fortunes so collected were tainted with fraud. But the men, who could commit such robberies and transmit the results to their heirs without getting into the state prison, could also manage to cover up the tracks of their villainy; and it will probably only be occasionally in the future that a stray compromising fact or a stray compromising document will come to light and astonish posterity with the wickedness of their ancestors.

Even the legitimate charges of lawyers were very large and burdensome to the grant holders. In the first place the claim had to be presented and tried in the land commission. From there it was appealed to the United States district court and perhaps tried there; and after that tried in the United States supreme court—all very high-priced tribunals. After confirmation, whether at the end of one, two or three trials which settled

the title, it came up again, on an entirely new line of proceedings, for location and went to the United States surveyor-general and then to the United States district court again, where another trial was usually had quite as expensive as the first. From the last mentioned court there was again an appeal to the United States supreme court. Taken together, the proceedings in cases that took the regular course were said to amount to six district and separate trials; and no lawyer could undertake to engineer or carry through so much litigation without being well paid. At the same time the grant owner was as a rule subjected to the loss of his cattle and to be harassed by squatters, while on the other hand he was compelled to pay annually his state and county taxes. The result was that many rancheros, even when not robbed by speculators, were utterly ruined by the cost of litigation with the government and the cost of fighting squatters.¹

A somewhat remarkable case of squatting and squatter fighting occurred at a place called Waterloo about eight miles north of Stockton in San Joaquin county on November 9, 1861. A man, named A. Drullard, had purchased a large tract of land under a supposed Mexican grant. Another man, named John Balkwill, squatted upon a portion of it, claiming that the supposed grant had been rejected and that he was entitled to pre-emption rights. He built a house and moved into it with his family. Soon afterwards, hearing that Drullard and his friends were preparing to drive him off, he sent his wife and family to her father's house about a mile distant and began fortifying himself. He laid in provisions and water and lined his house inside with boards, leaving a space of six inches next the walls, which he filled with mud. His earthwork extended seven feet high and at convenient places he cut port-holes, from which he could command every approach and make use of his weapons of defense, consisting of two rifles, four double-barreled shotguns, a revolver and an ax. Thus prepared he ensconced himself and bade his enemies defiance. He had, however, already made an offer to vacate the premises for twelve hundred dollars cash, but the offer had been rejected. Meanwhile Drullard and his friends had gone to Stockton and procured an old nine-pounder cannon

¹ Huse's Sketch of Santa Barbara, &c., 23, 24.

and a lot of cartridges, which they loaded on a wagon and proceeded within what was supposed to be range of Balkwill's house. Nothing less than a cannon would carry far enough; for as soon as they approached within rifle-shot, a bullet from the fortification warned them to get further back; and they heeded it. Finding a safe place, they at sunrise the next morning commenced a bombardment of Balkwill's castle with their cannon and continued it to the extent of four rounds. The engineering on the part of the attacking party, however, was a miserable failure. Their cannon was loaded, in the want of cannon-balls, with bullets, spikes, pieces of chain and old iron; but, as it was at least two hundred and fifty yards from the house, the first and second shots fell short; the third went over the roof, and the fourth again fell short. The firing made a tremendous noise and kicked up a terrible dust where the shot fell; but it did no execution; and the fort remained uninjured. In response to the cannon that was thus pouring forth its ineffectual thunder, Balkwill sent an elevated rifle-ball into the besieging camp, which cut off a finger of one of the besiegers. While the battle was thus raging, an unexpected ally made a desperate attempt to reach and succor the defender of the fort. This was Mrs. Balkwill, who on hearing the terrific noise of the cannon rushed frantically from her father's house and, running all the way, came near breaking through the besiegers' lines, when she was captured and forcibly prevented from placing herself in danger by her husband's side. Failing in that, she attempted to secure a pistol and shoot down the cannoneers. But in this too she was foiled; and the lives of one or two and perhaps several men were saved. By this time Deputy Sheriff Choate with assistants reached the scene of operations; seized the cannon, and stopped the fight; and soon afterwards the Drillard party was arrested and marched off to answer a charge of riot. As for Balkwill, he continued to hold possession of the fort and spoke contemptuously of the tactics of the enemy; and it was generally believed that, if his wife had reached him, he would have left her to man the guns and himself have sallied forth and captured the cannon.¹

¹ Stockton Argus of November, 1861; History of Stockton, &c., by George H. Tinkham, San Francisco, 1880, 163-165.

CHAPTER III.

LAND COMMISSION AND ANTI-FOREIGNER MOVEMENTS.

THE squatter troubles were a natural result of the unsettled condition of land titles. It was from the first well known that much and perhaps the better part of the soil was held under Spanish or Mexican grants; but it was more or less uncertain what alleged grants were valid and, as to such as were valid, what were their extent and where were their boundaries. To adjudicate and authoritatively answer these important questions congress on March 3, 1851, passed the "act to ascertain and settle private land claims in the state of California." It provided for a board of land commission, to consist of three commissioners, who were to be appointed by the president of the United States with the advice and consent of the senate; and these commissioners were to appoint a secretary and the necessary clerks not exceeding five. The president was also to appoint a law agent who was to attend the meetings of the board and act as attorney for, and superintend the interests of, the United States in all matters pending before it. The commission was to continue for three years, unless sooner discontinued, and was to hold its sessions at such times and places as the president should direct. Provision was also made for the taking and preserving of all testimony in writing and the securing of the attendance of witnesses. Each and every person, claiming land in California by virtue of any right or title derived from the Spanish or Mexican government, was required to present his claim, with such evidence and testimony as he relied upon to support it, to the commission; and it was made the duty of the board, when the case was ready for hearing, to examine the same upon such evidence and the evidence produced on behalf of the United States and to pass upon the validity of the claim and, within thirty days after such

decision to certify the same with the reasons upon which it was founded to the United States district attorney for the district. The act further provided that in all cases of rejection or confirmation by the board, either party might present a petition to the United States district court to review the decision of the commissioners and decide on the validity of the claim. Such petition, which was to set forth fully the nature of the claim or the grounds on which it was alleged to be invalid, as the case might be, was to be accompanied by a transcript of the proceedings and testimony adduced before the commission; and the district court was to proceed to render judgment upon the pleadings and evidence in the case and upon such further evidence as might be taken by order of the court; and from such judgment there was to be an appeal, on application of the losing party to the supreme court of the United States. All lands, the claims to which should be finally rejected and all lands, claims to which should not be presented to the commission within two years, should be deemed, held and considered as part of the public domain; and for all claims finally confirmed, a patent should issue to the claimant upon the presentation to the general land office of an authentic certificate of such confirmation and a plot or survey of the land duly certified and approved by the United States surveyor-general for California. It was further provided that in case a third person claimed title, he might intervene in the United States district court, and the United States district judge might enjoin the issue of a patent until after an adjudication of the intervention. Claims for town sites were to be presented, not by individual lot owners, but by the corporate authorities or other representative of the town. And it was expressly declared that decrees and patents issued under the act should be conclusive only between the United States and the claimants and should not affect the interests of third persons.¹

This act, in something like the same form as that in which it finally passed congress, was introduced on December 10, 1850, by Senator Gwin as a substitute for a bill which had been previously introduced by Senator Fremont. The Fremont bill was in some respects the same; but it located the points at which the

¹9 U. S. Statutes at Large, 631.

commission was to sit; it provided for the consideration of land claims originating after July 7, 1846, and it gave no appeal to the United States from a decision of confirmation. Amendments to it had been offered by Senator Thomas Ewing of Ohio; and Gwin's substitute consisted in substance of the original bill with Ewing's amendments. Senator Thomas H. Benton of Missouri opposed the substitute on the main ground that it arraigned all the titles in California and held them to be invalid until after they should have run the gauntlet of certainly three, and perhaps more; different lawsuits; and all of them before tribunals appointed by the United States government itself. Such a plan, in view of the costs, expenses, delays and anxieties which could not be avoided, he pronounced equivalent to a general confiscation of the landed property of the country and a spoliation of the old Californians. Benton therefore proposed, in place of "the horrors of going through three lawsuits for their property and one of these lawsuits three thousand miles from where they live," to have a recorder of land titles appointed to go into every part of California, collect evidence of grants and make abstracts of title. All claims were to be confirmed at once, except such as might appear doubtful; and in such cases the claimant was to be called into court and show cause why his claim should not be canceled. But notwithstanding Benton's strong and determined opposition and subterfuges, the bill passed and became a law.¹

There can be little or no doubt that some of the old grants, where the title and possession were notorious, might have been settled with much greater speed and much less expense than they were; and it might possibly have been well enough in such cases to deny any appeal. But there were very few cases in which serious questions in reference to validity, extent or location did not arise; and, considering all things, it is doubtful whether any general plan, such as would embrace all claims, could have been devised much better than the one adopted. It did not deserve the abuse heaped upon it by Benton or those who have followed him in calling it an act to despoil land owners. Its object was to segregate valid Spanish and Mexican grants from the public domain; and, though it might perhaps

¹ Congressional Globe, Vol. XXIII, 25, 117, 157-160, 451, 816.

have been administered with more economy and speed, it accomplished its purpose as well as could have been expected of any law. After very thorough discussion, it received the support of the ablest men in congress, excepting Benton and a very few others; and in subsequent operation it proved to be by no means so black as it had been painted. Whatever complaint could justly be made was not the fault of the law but of those who administered it and particularly of the United States attorneys and the influence upon them of the powerful squatter interest already referred to.

Gwin, though generally supposed to be the author of the law, had, as has been seen, very little to do with it except to engineer it through congress. It was in fact not very different from other acts that had operated reasonably well in reference to land claims in Missouri and Arkansas. But at the next session of congress, Gwin did introduce a bill, which, if it had passed, would have certainly deserved the name of despoiling the owners of land under Mexican grants and which, even as it was, proved him to be in favor of the squatter interest. This bill provided that if any one had in good faith settled on land, believing it to be public, and it was afterwards found that such land was within the limits of a confirmed Mexican grant, such settler should be allowed to retain his possession to the extent of one hundred and sixty acres and the grant owner should receive an equivalent number of acres of lieu land to be located on other public lands in the state. The bill, however, was throttled in its incipiency. Had it become a law, it is obvious that nearly every squatter in the country would have been able to prove that he had settled in good faith believing the land to be a portion of the public domain, whereas the grant owner, instead of receiving what belonged to him and what had been guaranteed to him by the treaty of Guadalupe Hidalgo and the repeated assurances of the United States and its officers, would have been obliged to accept what was comparatively valueless. If this would not have been spoliation, it is difficult to know what would have been. But there was a large class of the community, and certainly much the noisiest class, which could not understand how Spain or Mexico could have made grants of the

best land by square leagues and who, under any and all circumstances, were disposed to believe that in the conquest of California the United States conquered the ownership of the land as well as the sovereignty of the country for United States settlers. And it was this element that Gwin, in this part of his political career, appealed to and to a great extent won.¹

The land commission opened its sessions at San Francisco on January 2, 1852. It then consisted, by appointment of President Fillmore, of Hiland Hall, Harry I. Thornton and James Wilson as commissioners. George W. Cooley was law agent, with Robert Greenhow as assistant. In 1853 President Pierce changed the board by the appointment of Alpheus Felch, Thompson Campbell and R. Augustus Thompson as commissioners and Volney E. Howard as law agent. Their commissions would, in accordance with the terms of the act, have expired in March, 1854; but previous to that time the operation of its provisions as to their power to act was extended for one year longer and afterwards for another year. In 1854 Peter Lott was appointed commissioner in place of Campbell and J. H. McKune law agent in place of Howard; and in 1855 S. B. Farwell was appointed commissioner in place of Lott. On March 3, 1856, five years after the passage of the original act, the board adjourned finally or, in technical language, "sine die." The number of land claims presented to it, as has been already stated, was eight hundred and thirteen, asking for nineteen thousand one hundred and forty-eight square miles or upwards of twelve and a quarter million acres; and of the claims presented five hundred and fourteen were confirmed, two hundred and eighty rejected, and nineteen discontinued. Almost all were appealed to the United States district courts, in which about twenty of those which had been confirmed were rejected, and about a hundred of those which had been rejected were confirmed. In four hundred and thirty-four of the cases of confirmation, the appeals taken by the United States were afterwards, about 1857, withdrawn or dismissed by consent and the judgments of the land commission accepted as final decrees, upon which patents were eventually issued. In about sixty of the

¹ Congressional Globe, Vol. XXIV, ---.

cases appealed to the United States district courts there were further appeals to the United States supreme court.¹

It would appear from the large number of reversals, and particularly in view of the ordinarily simple questions presented, that the land commission was not a very successful tribunal. But it is to be borne in mind that on the hearing of appeals in the United States district court new testimony was received, and that in some cases a number of additional, and in some a different state of, facts was shown. In further explanation of the many reversals, it is also to be borne in mind that in some of the cases involving the most valuable lands there was much fraud and perjury, which could not be met and guarded against as well in the land commission as afterwards in the courts. This was particularly the case with reference to several claims to land in San Francisco. One, commonly known as the Bolton & Barron or Santillan claim but owned and urged principally by Palmer, Cook & Co., purporting to be a grant of three square leagues of land at the Mission Dolores and including substantially all the land of the city and county of San Francisco south of California street, was said to have been made on February 10, 1846, by Governor Pio Pico to Prudencio Santillan, a priest at the Mission. It was filed in the land commission on March 1, 1852, and confirmed by that tribunal on January 5, 1855, and pro forma by the United States district court on April 7, 1857. But on appeal to the United States supreme court it was in 1860 pronounced an unmitigated fraud and rejected.² Another, known as the Sherrebeck claim, purported to be a grant of eight hundred varas square between Market street and Rincon Hill, said to have been granted on December 5, 1845, by Manuel Castro as prefect of the second district to Peter Sherrebeck, a Danish resident of Yerba Buena. The claim, filed on March 3, 1853, was rejected by the land commission on November 6, 1855; but subsequently on December 5, 1859, it was, to the surprise of the

¹Journals and papers of Land Commission in U. S. Surveyor-general's office in San Francisco; Hoffman's Reports, San Francisco, 1862; Opinions of U. S. Attorneys-general, Vol. VIII (1858), 515; Ex. Doc. 1 Sess. 36 Con. H., Vol. XII., No. 84, 30.

²United States *vs.* Bolton, 23 Howard, 241.

public, confirmed by the United States district court. Soon afterwards, however, on June 2, 1860, on proofs said to show conclusively the fraudulent character of the claim, the decree of confirmation was vacated; and that was substantially the last of the case in the federal courts. Subsequently, in 1891, the supreme court of California put a final quietus upon it.¹

But the most enormous and perhaps the most outrageously fraudulent of all these claims was that known as the Limantour. It purported to be a grant of four square leagues south of California street, said to have been made on February 27, 1843, by Governor Micheltorena to José Yvez Limantour, a French resident of Mexico who was then a small trader to California, and an additional grant of Yerba Buena, Alcatraz and the Faral-lones Islands and one square league of land in Marin county opposite Angel Island, said to have been made on December 16, 1843, by the same governor to the same claimant. These claims were filed on February 3, 1853, and confirmed by the land commission—the first on January 22 and the second on February 12, 1856. Their confirmation had been especially and vehemently urged by James Wilson, one of the original appointees of President Fillmore to the land commission, who had become the attorney for the claimant; and, so far as his professions and pretensions could go, he staked his character and reputation upon their honesty and validity; and he thus induced many persons, who evidently did not know or properly appreciate the value of those commodities, to purchase quit-claim deeds from him as attorney-in-fact of Limantour for their property. Afterwards in 1858, when the cases came up on appeal in the United States district court, Judge Ogden Hoffman in rejecting them used very strong language and among other things said it was difficult to confine within the limits of judicial moderation the expression of the indignation he felt at the fraud that had been attempted to be perpetrated. As to the alleged grants themselves he pronounced them unquestionable frauds; and he characterized the unscrupulous and pertinacious obstinacy with which they had been persisted in as without a parallel in the judicial history of the country. And in the same connection he called attention to the

¹ Hoffman's Reports, App. 106; Ohm *vs.* San Francisco, 92 Cal. 437.

fact that Limantour had presented six other claims for confirmation, one for eleven square leagues called Laguna de Tache in Monterey county, one for eleven square leagues called Lupyomi in Napa county, one for eleven square leagues called Cienega del Gabilan in Monterey county, one for six square leagues called Cahuenga in Los Angeles county, one for four hundred varas square called Ojo de Agua or the vineyard of San Francisco Solano in Sonoma county, and one for eighty square leagues, being a tier of eight leagues deep running ten leagues south of Cape Mendocino, in Mendocino county. These six claims, which were in the aggregate for nearly a thousand square miles of territory or, more accurately, five hundred and ninety-four thousand seven hundred and eighty-three and a third acres, had all been rejected and were in substance abandoned by the claimant. It was plain from many circumstances, said the judge, that all the pretended grants were forgeries and that the testimony in their favor by Limantour's chief witnesses, Manuel Castafiares, Florencio Serrano, Henry Cambuston, José Abrego and Victor Prudon, was perjured. The falsity and fraudulent character of the alleged grants were so apparent, when pointed out by the court, that no attempt was made to appeal from the decision. On the contrary Wilson, having staked whatever honor he may have had and lost, left the country; and Limantour himself, having remained too long, was indicted for perjury and forgery; but, having managed by furnishing ample indemnity to get bail in the sum of thirty-five thousand dollars, he also left the country, and has never since returned.¹

The unmasking of the Limantour and other frauds was due in great part to Edwin M. Stanton, who came to San Francisco in February, 1858, as special counsel for the government in cases then pending and particularly the Limantour cases. It was while so engaged that, as has been already stated, he collected, arranged and bound the California archives. But he did much more than that: he examined and studied them and had other able men examine and study them. And the result of the investigations made by him and others in the same direction was

¹United States *vs.* Limantour, Hoffman's Reports, 389; Annals of San Francisco, 431, 432.

"irresistible proof that there had been an organized system of fabricating land titles carried on for a long time in California by Mexican officials; that forgery and perjury had been reduced to a regular occupation; that the making of false grants, with the subornation of false witnesses to prove them, had become a trade and a business." On April 22, 1858, United States Attorney-general Jeremiah S. Black, under whose appointment Stanton had been employed, pronounced the Limantour claims "the most stupendous fraud—the greatest in atrocity as well as in magnitude—ever perpetrated since the beginning of the world." He afterwards, in 1859, said of the high Mexican officials referred to that "it was determined and solemnly adjudged that Bocanegra's attestation was a shameless falsehood; Castañares was perjured; and Arista, the president, was engaged with the others in a shameless conspiracy to impose upon the courts of the United States." And in reference to fraudulent grants in general, he spoke of numbers of "blank grants, bearing the signature of a distinguished comandante-general and governor of the Californias, purporting to be dated before the war and ready to be filled up afterwards with lands and mines belonging to the United States, having been found in the hands of miscreants who were in close correspondence with high officers of the Mexican government."¹

Attorney-general Black on May 22, 1860, in a letter to President Buchanan, spoke of the work that had been done in collecting, collating, translating and preserving the archives and of the means of detecting and exposing frauds. Among other things he said that there had been compiled from the records a list of all the professional witnesses or persons supposed to have hired themselves out to do the business of swearing false claims through; that tolerable full biographies of nearly all the men who had been engaged in these schemes of imposition and fraud, from the governors down to the lowest of the suborned witnesses, had been prepared, and that guided by the light procured he felt able to determine with almost absolute certainty the truth or falsehood of any claim presented. He further said that the value

¹ Ex. Doc. 1 Sess. 36 Con. H. Vol. XII, No. 84; Opinions of U. S. Attorneys-General, Vol IX (1859), 327.

of lands, which had been claimed under grants ascertained to be forged, was probably not less than one hundred and fifty millions of dollars and that more than two-thirds of them had been exposed and defeated. "These frauds," he went on to remark, "operated like a curse and scourge upon the most magnificent portions of the American empire." And he then specifically mentioned, as among those which had thus been exposed and defeated, the Limantour, Santillan and Sherrebeck claims; the Sutter claim to twenty-two square leagues in Yuba and Sutter counties alleged to have been granted on February 5, 1845, by Governor Micheltorena to John A. Sutter; the Nye claim to four square leagues on the Sacramento river alleged to have been granted on December 22, 1844, by Micheltorena and Sutter to Michael C. Nye; the Bassett claim to four square leagues in Colusa county alleged to have been granted about the same time and by the same persons to Juan Daubenbiss; the Fuentes claim to eleven square leagues in Santa Clara county alleged to have been granted on June 12, 1843, by Micheltorena to his nephew, a boy named José Maria Fuentes; the Teschemacher claim to fourteen square leagues in Napa county alleged to have been granted by Micheltorena to Salvador Vallejo and Juan Antonio Vallejo, brothers of Mariano Guadalupe Vallejo; the Benitz claim to five square leagues in Shasta county alleged to have been granted on July 26, 1844, by Micheltorena to William Benitz; the Rose and Kinloch claim to six square leagues in Yuba county alleged to have been granted on December 22, 1844, by Micheltorena to John Smith; the James Noe claim to an island in the Sacramento river, purporting to contain five but supposed to contain eleven square leagues, alleged to have been granted on March 15, 1841, by Governor Alvarado to Robert Elwell; the Andres Pico claim to eleven square leagues in Calaveras county alleged to have been granted on June 6, 1846, by Governor Pio Pico to his brother Andres Pico; the Garcia claim to nine square leagues in Mendocino county alleged to have been granted on November 15, 1844, by Micheltorena to Rafael Garcia; the Galbraith claim to five square leagues in Marin county alleged to have been granted on June 12, 1845, by Pio Pico to Juan N. Padilla; the Osio claim to Angel Island in

San Francisco bay alleged to have been granted on June 11, 1839, by Alvarado to Antonio Maria Osio; the Francisco Pico claim to eight square leagues in Calaveras county alleged to have been granted on July 20, 1846, by Pio Pico to Francisco Pico; the James Murphy claim to four square leagues in Sacramento county alleged to have been granted on December 22, 1844, by Micheltorena to Ernest Rufus; the Pratt claim to three square leagues called Socayac on the Cosumnes river, alleged to have been granted on December 22, 1844, by Micheltorena to John Chamberlain; the Vallejo claim to Suscol in Solano and Napa counties alleged to have been granted on March 15, 1843, by Micheltorena to Mariano Guadalupe Vallejo; the Juan M. Luco claim to fifty square leagues called Ulpinos in Solano county alleged to have been granted on December 4, 1845, by Pio Pico to José de la Rosa, and the Benito Diaz claim to two square leagues in San Francisco county, including Point Lobos and Fort Point, alleged to have been granted on June 25, 1845, by Pio Pico to Benito Diaz.

The Benito Diaz claim, just mentioned, was presented by the banking firm of Palmer, Cook & Co., the same institution and individuals who presented the Santillan claim. These two claims together, being for five square leagues of land, covered almost all of San Francisco. They constituted integral portions of what Attorney-general Black, in addition to his other forcible characterizations, called "the most atrocious frauds ever perpetrated upon any government." They were parts of the five different grants mentioned by him as covering the richest part of San Francisco, "every one of them forged after the conquest." It is not at all unlikely, and it is in fact pretty certain, that some valid claims were rejected, as well as some fraudulent ones confirmed. But there seems to be no manner of doubt, though the attorney-general may have been somewhat extravagant in regard to a few of his estimates, that he was entirely correct in reference to the character of the frauds attempted, especially those known as the Limantour, Santillan and Benito Diaz claims, and the great service done the government and the people by exposing and defeating them.¹

¹ Ex. Doc. 1 Sess., 36 Con. H., Vol. XII, No. 84.

As already intimated, it is doubtful whether Black's list of fraudulent titles was entirely correct. There were two cases, for instance, of grants purporting to have been made by Governor Alvarado in 1838 and 1839, under a special order of the Mexican government, of islands in San Francisco bay, which were probably genuine; but on account of being out of the ordinary line of grants they were not properly authenticated and archived, and for that reason mainly if not entirely were rejected. One of them was the claim of Antonio M. Osio to Angel Island mentioned by Black. It purported to have been made on July 11, 1839; was presented to the land commission on February 2, 1852; confirmed by that tribunal on October 24, 1854, and affirmed by the United States district court on September 10, 1855. But on appeal to the United States supreme court the confirmation was reversed on the ground that the grant was not properly attested and that the grantee had not shown sufficient possession or acts of ownership to substantiate his grant. It therefore ordered the claim to be dismissed. The other claim, not noticed by Black however, was that of Joel S. Polack to Yerba Buena Island. It purported to have been made by Governor Alvarado to Juan José Castro on November 8, 1838. The object of the Mexican government in this as in the Osio case seems to have been to prevent smuggling and the order was made in the expectation that, if the islands were granted in private proprietorship and occupied, offenses against the revenue laws would be rendered more difficult. Whatever the object, there is no very good reason to doubt that Alvarado at the time actually made the alleged grant; and, so far as that fact was concerned, there was testimony enough on the subject. Accordingly when the matter came up before the land commission, there was on May 22, 1855, a decree of confirmation. But on appeal to the United States district court, a great deal of additional testimony was taken, from which it appeared that the papers had never been properly authenticated and filed and in fact nothing remained in the way of documentary evidence but a copy of the grant. There was also, as in the Osio case, a question of possession and occupation. It appeared that in 1837 there were a number of goats on the island from which circumstance it was often and indeed very

usually called Goat Island; but it was apparently not then claimed by the owner of the goats or any one else. Soon after the grant of 1838, Castro, who lived at San Pablo not far distant, appears to have put some sheep and hogs on the island and sent a few Indians for a time at least to look after them; but, as said before, the archives contained no evidence of the grant, which was doubtless at that time considered hardly worth looking after; the proofs of possession and occupation were not satisfactory, and the claim was rejected. From that time the island was regarded as belonging to the United States, in whom the title is still vested, though there was for a time, and until it was understood that the government reserved all the islands in the bay for military or other public purposes, much litigation in relation to possessory claims upon it.¹

Another interesting San Francisco claim may be also here mentioned, which, however, differed entirely from the others. It purported to be a grant of one square league, made by Governor Micheltorena to Fernando Marchena on August 14, 1844, giving the grantee the right to locate it on any vacant land in the vicinity of the port. There was in the archives no trace of such grant—the only evidence being a loose paper purporting to be a grant. On account of the gauzy character of the claim, it was never presented to the land commission; but in 1850 Marchena had a little hut in what is now the Western Addition of San Francisco and employed his time in cutting scrub-oak and burning charcoal, which he peddled out in the neighboring city. It is uncertain what he claimed at that time, nor would it be of any importance, as he certainly had no right to anything except perhaps his hut, had it not been that one John K. Moore some years afterwards produced a deed, alleged to have been made to him by Marchena in 1850 for a mile square of Western Addition land next west of Larkin street, and subsequently for a number of years vexed the residents of the district with lawsuits based upon the purchase and pretended prior possession taken under it. The principal of these suits came up for trial about 1866, when the flimsy character of the claim was fully exposed by the wonderful ability of John B. Felton, leading attorney for defend-

¹ Hoffman's Reports, 284-298; Appendix, 2, Case No. 11.

ants; and thereby another incubus of the multitude that brooded over early land titles of San Francisco was lifted and forever dissipated.¹

In the meantime, before the adjudication and settlement of land titles by the land commission and while the squatters were badgering and harassing the old Californian land owners and nearly everybody who held or claimed vested rights, the same general class of men as the squatters were persecuting and attempting to drive out the foreigners, and especially the Chilean, Peruvian and Mexican miners of the early days. This class of men, not all of whom were vicious and many of whom were rather misguided and ignorant than malicious, commenced coming to the country almost immediately after the discovery of gold and very soon manifested the side on which they were and the principles they proposed to maintain. In January, 1849, some of the adventurers for California, who had made their way from the Atlantic states to Panama and were there in great numbers awaiting transport to San Francisco, considered themselves very much wronged by the fact that the steamer California, on its first voyage, had brought along as steerage passengers from Callao about fifty Peruvians, who had thus secured the means of reaching the gold mines months earlier than the same number of Americans who were compelled to remain for another vessel. The Americans thereupon took occasion to express their opinion that, as California belonged to the United States, no persons, except American citizens, should be allowed to dig gold in the mines. Efforts were made to induce the Peruvians to land from the steamer; and, had they done so, it is doubtful whether they would have got to California for a long time; but they persisted in remaining on the vessel; and the captain finally compromised with the popular cry by erecting temporary quarters for them on the upper deck and taking on as many American passengers as would have been accepted if they had not been there. It was principally on account of the influence of this same class of Americans at Panama, whose presence there was described as "one continual scene of fights, rows, drunken yells and every

¹ Dwinelle, Add. 179, 180; Proceedings in Case of Moore *vs.* Beideman, Twelfth District Court, 1866.

species of confusion,"¹ that General Persifer F. Smith, then on his way to take charge of the Pacific military division, made his public declaration, already mentioned, to the effect that foreigners would not be allowed to work in the mines. The riotous proceedings of the so-called "Hounds" against the Chilenos and other foreigners at San Francisco in the summer of 1849 were, as has been shown, in part due to that proclamation and its sinister encouragement of the anti-foreigner prejudices of portions of the population.²

William Downie, the founder of Downieville, said that the first time and place he ever saw an organization in the mines to drive away foreigners was in the early part of October, 1849, at Bullard's Bar on the Middle Fork of Yuba river. A party of twenty or thirty persons had come down from Foster's Bar, armed with pistols, rifles and old shotguns and bearing aloft a miniature sample of the stars and stripes, which had evidently been prepared for the occasion. As they halted, Downie asked one of the party, who gave promise of being communicative, where they were going. The man addressed answered that they

¹ *Threescore Years, &c., also Two Years in California, &c.,* by Samuel F. Holbrook, Boston, 1857, 460.

² *Statement of Rev. S. H. Willey, a sojourner at Panama in January, 1849.*

A small newspaper, called the "Panama Star," published at Panama on Saturday, February 24, 1849, contained what purported to be a translation from the Panameño of February 11, 1849, of General Smith's proclamation. It was in the form of a letter addressed to William Nelson, U. S. consul at Panama. It used the following language:

"The laws of the United States impose numerous and severe penalties upon those who unlawfully occupy the public lands. As nothing can be more unjust and unmeasurable [unreasonable?] than for persons not citizens of the United States to direct their companies in pursuit and to dig gold found in California on lands belonging to the American government; and, as such conduct is in direct violation of the laws, it will be my duty immediately upon arrival here [there] to put these laws in force, to prevent any infraction thereof, and in future to punish those who violate them with the full penalties prescribed therein. As the existence of these laws is probably unknown to many who contemplate proceeding to California, I have deemed it proper to promulgate a kindness [knowledge?] thereof and of my intention to enforce them against all those who do not hold citizenship in the United States."

A copy of the newspaper is in Pioneer Hall, San Francisco.

were marching thirty miles down one side and up the other side of the river to drive off foreigners. He proved to be an Irishman, fresh from the native sod; and there were also Germans in the party, who could not speak intelligible English. The foreigners they were after, however, and whom they were determined to drive out of the country, were not so much South Americans as Sandwich and South Sea islanders, known as Kanakas.¹

But the principal resort of the foreigners in 1849 was not to the Northern but to the Southern Mines. One reason of this was because the adventurers from Sonora and Mexico, who came up overland, reached those mines first and stopped there, forming a nucleus around which the later comers congregated. Their numbers at first gave them so much superiority over the Americans as to enable them to take possession of and hold some of the richest grounds in that part of the country. In the early part of 1849 the Americans were mostly employed on the forks of the American, Bear, Yuba and Feather rivers; but, as their numbers increased, they gradually spread southwards over the Southern Mines; and, as they did so, a few collisions took place and many more were threatened between them and the foreigners. It was estimated that by the middle of 1849 there were about twenty thousand persons at work in the mines, of whom not more than about one-fourth were Americans, and that, of the gold collected up to that time, the foreigners got about three-fourths. As the Americans increased, however, these proportions began altering and towards the end of the season changed very rapidly. By that time many of the foreigners, either on account of prudence or fear or because they were satisfied with what they had made, left the diggings and departed from the state. But enough remained to incur the bitter hate of those who objected to foreigners and to occasion disturbances on their account for a number of years.²

The prejudice against foreigners was so general as to manifest itself at the first session of the legislature by the passage of what was known as the foreign miners' tax law. This illiberal and

¹ Downie's Reminiscences, No. III, Downieville Democrat, April, 1858.

² Thomas Butler King's California: The Wonder of the Age, 27, 28.

hurtful statute, which was passed on April 13, 1850, provided that "no person, who is not a native or natural-born citizen of the United States, or who may not have become a citizen under the treaty of Guadalupe Hidalgo (all native California Indians excepted)" should be permitted to mine in the state without having first obtained a license so to do. The license was to be issued for a period of thirty days at the rate of twenty dollars per month, with the privilege to the foreign miner to take out a new license every month at the same rate. If he refused to take it out or renew it, the sheriff was to summon a posse of American citizens and drive him off; and any further mining by him was to be deemed a misdemeanor punishable by heavy fine and imprisonment. The collectors of this outrageous and oppressive tax were to be appointed by the governor; and, for the purpose of making them as active and persistent as possible, it was further provided that their only compensation should be three dollars for every license issued, to be retained out of moneys received for such license.¹

At the next session of the legislature L. A. Besançon, who had been appointed a collector of foreign miners' taxes under the statute, presented a report of how it had operated. He said that immediately after receiving his commission, he had opened an office in Sonora and given notice thereof and also caused the law to be distributed throughout the county of Tuolumne. Directly thereupon hand-bills in various languages were posted up in different places, calling upon the miners to unite in Sonora on the following Sunday for the purpose of preventing themselves from being fleeced by a band of miserable wretches, repudiated by their own country, who called themselves citizens of the United States, and, by restraining the rapacity of that horde, to procure some kind of guarantee for their own security. On May 19, 1850, in apparent response to these calls, some three or four thousand persons assembled in arms and marching into Sonora, where Besançon had opened his office, demanded to know if he intended to attempt to enforce the law. To which he answered that he did. Upon this, such hostile demonstrations were made on the part of the miners that many of the citizens

¹ Stats. 1850, 221.

felt compelled to close their doors and arm in self-defense. Being joined by them, the collector and the sheriff of the county caused the crowd to retire, though in doing so they encountered much difficulty and ran great risks of losing their lives. The foreigners next made head in a valley about a mile and a half distant from the town, where their numbers increased to about five thousand persons; and there preparations were made to resist the law and attack those who should attempt to enforce it. Meanwhile great excitement prevailed in Sonora. Among other moves that were made Judge Tuttle sent messengers to the different diggings where Americans were at work; and before night about one hundred and eighty well-armed men arrived to assist the authorities. Next morning the sheriff and collector, at the head of these men and their own forces, marched out and drove the foreigners, who had not succeeded in finding a leader or effecting organization, from camp to camp and tired them out. Most of them returned to their digging, while the others dispersed. All being satisfied that continued armed resistance meant bloodshed, further hostilities of that kind ceased. But the fight was by no means abandoned.

In June the matter was brought before the supreme court of the state on a petition by the attorney-general for a writ of quo warranto against the collector, alleging that the foreign miners' tax statute was unconstitutional and illegal and the exercise of the office of collector by Besançon an unwarrantable assumption of franchise and power. The court decided on technical grounds that it had no power to issue the writ and dismissed the petition.¹ But a few months subsequently, a case of the same character against Henry M. Naglee, who had been appointed collector for San Francisco county, came up on appeal; and the court decided the act constitutional.² Meanwhile Besançon had incurred large expenses in opposing the determined and imposing hostile demonstration against the law and he desired the state to foot the bill. But there could be found no law for the state controller to audit or for the state treasurer to pay any such claim; and he therefore resolved to retain the funds collected by him as a pro-

¹ People ex rel. the Attorney-General, 1 Cal. 85.

² People vs. Naglee, 1 Cal. 232.

tection to himself and sureties. The result was a lawsuit against him as a defaulter and the withdrawal of his commission by the governor.¹ By that time it was found that the operation of the law had been very disastrous upon many mining towns and particularly Columbia and Sonora—so much so that they were nearly depopulated and in fact never entirely recovered from the injury done them. The wrong committed by the state was recoiling upon itself. Though many persons were still fomenting trouble for the foreigners, public opinion advanced; and on March 14, 1851, at the next session of the legislature, the objectionable statute was repealed.² Subsequently a somewhat similar law was enacted, fixing the tax or license at four dollars per month and making the sheriffs collectors; but, except for the purpose of harassing Chinamen, it was not often enforced.³

An excellent idea of the feeling against foreigners may be formed from a consideration of the proceedings of a mass meeting held at Sonora on Sunday, July 21, 1850. It adopted a preamble and resolutions to the effect that, whereas the lives and property of American citizens were in danger at the hands of "lawless marauders of every clime and creed under the canopy of heaven;" and whereas scarce a day passed without the commission of horrible murders and robberies, and whereas there were present on every side "the peons of Mexico, the renegades of South America and the convicts of the British Empire:" therefore, resolved that all foreigners in Tuolumne county, "except those engaged in permanent business and of respectable character," should be required to leave within fifteen days, unless they should obtain a permit to remain from a committee of three persons selected by the American citizens of each camp or diggings; that all foreigners without licenses should be notified to turn over their fire-arms and deadly weapons to the committeemen, who were to receipt for the same; that every good citizen should have power to disarm any foreigner, and that all good citizens should resolve themselves into a committee of the whole to carry out the objects of the meeting.⁴ In the early spring of 1852 the miners of Rich

¹ Journals of Legislature of 1851, 660-663.

² History of Tuolumne County, 27-34; Stats. 1851, 424.

³ Stats. 1853, 62; Hittell's Gen. Laws, 3144.

⁴ History of Tuolumne County, 44-46.

Bar on the East Branch of the North Fork of Feather river adopted a series of resolutions for their guidance during the season, one of which was to the effect that no foreigner should work in the mines there. This had caused nearly all the Spaniards or Spanish-speaking miners to emigrate to Indian Bar, where a number of new houses, some for the sale of liquor and other low purposes, were immediately built by them. But even at Indian Bar they were not undisturbed. On the evening of July 4, 1852, six or eight of the "elite" of Rich Bar, drunk with patriotism, marched into the place and attacked the foreigners with cries of, "Down with the Spaniards! The great American people forever!" Several of the foreigners were seriously injured. But it seemed more than likely that the inciting cause of this disturbance was not so much the illiberal and narrow-minded prejudice against foreigners as it was the influence of John Barleycorn.¹

Though there were undoubtedly many peaceable and well-disposed men on the North Fork of Feather river, there was also a very rough element, which furnished the usual material for these attacks upon foreigners. About the beginning of August, 1852, at Junction Bar, two miles from Indian Bar, a mob was brought about by the killing of a young Irishman, named Thomas Somers, in a fight which he had with a Spaniard. The latter escaped, whereupon a cry rose for vengeance against foreigners; and it was only quieted by the organization of a vigilance committee and the condemnation of several bad characters to a flogging. But this vigilance committee does not appear to have improved matters in other respects very much. The rowdies, apparently acting without fear of it, formed themselves into a company, self-styled "The Moguls," which paraded the streets night after night, howling, shouting, breaking into houses, taking unpopular persons out of their beds and throwing them into the river, and in short, as an observer remarked, "murdering sleep in the most remorseless manner." Nor was it strange that the vigilance committee did not interfere; for as a matter of fact members of that committee were ringleaders among the Moguls. It was said on August 4 that within the short space of twenty-

¹ Pioneer Magazine, Vol. III, 355; Vol. IV, 24.

four days there had been in the immediate neighborhood "murders, fearful accidents, bloody deaths, a mob, whippings, a hanging, an attempt at suicide and a fatal duel"—which, it must be admitted, was quite a remarkable catalogue.¹

In April, 1856, a man named Conway was killed by a Chileno at or near Coulterville in Mariposa county. The homicide appeared to have been committed in revenge for the hanging of a friend of the perpetrator some months before, in which Conway was said to have taken a hand. However this may have been, the friends of Conway immediately combined and, arming themselves, marched to Maxwell's creek to arrest the slayer and a party of his friends. As the latter resisted, an affray took place, in which two Chilenos were shot down and killed and a third, said to be named Alvarado, was taken and hung. The next day Conway's friends resolved themselves into what they called a vigilance committee, marched to the North Fork of the Merced river, and seized two more Chilenos, who in attempting to escape and thereby avoid being carried to Coulterville were also killed. Not long afterwards the so-called vigilance committee organized a company of rangers, which scoured the neighborhood and drove the foreigners before them, shooting one or two and ordering the others to leave the country.²

¹ *Pioneer Magazine*, Vol. III, 356; Vol. IV, 103-109.

² *Mariposa Gazette* of April and May, 1856.

CHAPTER IV.

JOAQUIN MURIETA AND HIS BANDITI.

ONE, and a very significant, effect of the foreign miners' tax law and the prejudices against foreigners, of which it was the evidence, was to deprive many of them of employment. As a natural consequence, being thus rendered destitute of the means of purchasing food and clothing, they became desperate and were driven to theft, robbery and sometimes murder.¹ For several years after the persecutions of this kind began, the otherwise waste regions of the upper San Joaquin valley, and particularly that portion of it west of Tulare Lake, were ranged over by gangs, amounting in the aggregate to several hundred, of Spanish-speaking vagabonds, whose ostensible occupation was running mustangs but whose real business was believed to be robbery and the protection of robbers. In October, 1855, on account of the great increase of crime and the consequent strengthening of the opinion that the criminals were the pretended mustang-runners, a company of rangers was organized on the Merced river and undertook to relieve that region of the marauders; and a fight was said to have taken place between them and a party of Mexicans having charge of a large band of horses and mules near the Chowchilla river, in which a number of the Mexicans were killed.² There were many expeditions of this kind, sometimes in charge of sheriffs and sometimes without them, and not unfrequent bloody fights, until in the course of years the country was cleared of the bandits and it became safe to travel through it.

The famous brigand chief, Joaquin Murieta, and many of his bandit companions, who were second only to him in their bad

¹Wood's Sixteen Months at the Gold Diggings, 142.

²San Joaquin Republican, November, 1855.

eminence, were said to have been driven into their career of crime and blood by anti-foreigner persecution. Joaquin, according to the best but still to a great extent unreliable reports about him, was born in Sonora and came to California soon after the discovery of gold. He was said to have been mining on the Stanislaus river in the early spring of 1850, when he was driven off by an anti-foreigner mob, which treated him very roughly and abused his wife or mistress, whom he had brought with him from Mexico. He then proceeded to a spot on the Calaveras river and again commenced mining; but was again driven off by a mob. He then took up his residence at Murphy's Diggings in Calaveras county and became a monte-dealer. While so engaged, he had occasion to visit a half-brother, who lived not far distant, and borrowed a horse from him to ride back. The horse appeared to have been stolen; and, upon Joaquin's return, the owner, happening to see the animal, not only claimed it but called upon the crowd to help him punish the supposed thief. Joaquin protested that he had borrowed the animal and that his half-brother had honestly paid for it; but all the effect his remonstrances produced was simply to induce the mob to go after the half-brother also. A sort of lynch-law court was convened and trial held, at which defendants, however, were unable to bring forward any testimony except their own; and the result was that the half-brother was hung upon the nearest limb and Joaquin, being tied to the trunk of the same tree, was publicly flogged. Upon being released and told to leave the place, he swore vengeance upon those who had wronged him and the Americans in general.¹

Though it is not at all probable, judging from Joaquin's subsequent career, that he was ever anything but a vicious and abandoned character, low, brutal and cruel, intrinsically and at heart a thief and cut-throat, it is not unlikely that the anti-foreigner persecution, from which he suffered, made him much worse than he would otherwise have been; and it is pretty certain that the same cause had much to do in rendering it possible for him to gather and keep together for so long a time so many men preferring brigandage with all its toils, privations and perils to easier

¹ *The Life and Adventures of Joaquin Murieta, &c.,* by John R. Ridge, San Francisco, 1871, 5-10.

and secure life in the mines. However this may have been, highway robberies and murders became very frequent; and in the course of 1851 it was perfectly well known that a band of organized banditti was ranging the country, though it was not for some time known who was the leader of them. It was said that the first victims were persons, who had been parties to the lynching of Joaquin's half-brother and the flogging of himself; but no one for some time supposed that the young monte-dealer was the chief and governing spirit of the organization. Among the band was Manuel Garcia, better known as "Three-fingered Jack" from the fact of having lost a finger at the time of the Mexican war. He was said to have been the leader of the guerrilla party that in 1846 tortured, murdered and mutilated Cowie and Fowler near Santa Rosa. Another member of the combination was Reyes Feliz, said to be a brother of Joaquin's female companion; another a man called Claudio; a fourth Joaquin Valenzuela, and a fifth Pedro Gonzales. All these were more or less prominent; and several of them were at different times taken to be chief. Altogether the band numbered about fifty persons and was continually increasing. Joaquin, meanwhile, without being suspected, lived much about the towns and kept his subordinates posted about everything of interest to them that was going on. They were obliged from the nature of their occupation, which in addition to highway robbery was horse-stealing on a large scale, to travel from place to place; and Joaquin himself moved about a great deal. At one time in the summer of 1851 he was at San José and was said to have there murdered a deputy sheriff of Santa Clara county, who had rendered himself obnoxious by his persistent and determined efforts to arrest some of his band.¹

From San José, Joaquin moved to what was known as the Sonorian Camp, a cluster of tents and canvas houses about three miles from Marysville; and in a very short time a number of very daring robberies and murders took place in that neighborhood. Seven men were murdered within three or four days. One of the most usual methods of assassination was to throw a lariat around the neck of an unsuspecting traveler, drag him

¹ Ridge's Life of Joaquin Murieta, 10-15.

into the chaparral by the side of the road and there dispatch him and rob the body. Suspicion was soon directed to the Sonorian Camp; and some attempts were made to fasten the crimes on individuals. But though these attempts were without success, Joaquin found it necessary to remove again; and on this occasion he led his band to the wild and rough but romantic and beautiful country to the west of Mount Shasta, where the chief object seems to have been to keep out of harm's way, occasionally cut a throat and once in a while descend into the Sacramento valley and steal horses. In the spring of 1852 the band, having collected some two or three hundred stolen animals, drove them down to a secluded and delightful little valley in the Coast Range of mountains opening by a narrow gorge into the plains west of Tulare Lake, about midway between the Tejon and Pacheco Pass. There it appears Joaquin divided most of his band, then consisting of about seventy members, into three parties and sent them out to commit depredations—one headed by Claudio, one by Garcia and one by Valenzuela. He himself, with Reyes Feliz and Pedro Gonzales and three females dressed in male attire and well-armed, went to Mokelumne Hill, where the women appeared in proper dress and attracted much attention by their quiet and modest deportment; while the men gambled and stole but more particularly devoted their time to the collection of information to aid in planning new robberies or protecting the band from trouble on account of old ones. By that time the name of Joaquin had begun to be connected with the numerous outrages committed in different parts of the country; and, though he was personally known to but very few persons, his villainous reputation spread far and wide; and he became a sort of terror in all exposed places. Meanwhile murders and robberies continued to multiply; and, notwithstanding various efforts that were made to put a stop to them, the criminals, partly because of their own abilities and partly because protected by certain of the old rancheros, managed for a time to escape arrest.¹

After leaving Mokelumne Hill, Joaquin and his party returned to their secluded valley for a short time and then again took the

¹ Ridge's Life of Joaquin Murieta, 15-19.

road. One day on this expedition Joaquin overtook a young man, named Albert Ruddle, who was driving a wagon on the highway. Riding up he asked the loan of what change he had about him; and, upon Ruddle's refusal and effort to protect himself, Joaquin whipped out his bowie-knife, slashed him in the neck, cut his throat from ear to ear, threw the dead body on the ground, robbed it of about three hundred dollars and left it lying in the dust. This all took place in sight of his special party above mentioned and may have been intended as an object lesson. About that same time Captain Harry S. Love, deputy sheriff of Los Angeles county, a Texan who had served as a scout and express rider in the Mexican war and was experienced in all the hardships and dangers of border hostilities, headed a party to pursue the cut-throat and his band and tracked them by their murders and robberies to the rancho of San Luis Gonzaga in Mariposa county, where they were passing the night in a canvas house. Love and his party came up in the darkness; but, as they pressed in at the door, Joaquin and his male companions cut through the canvas at the rear and escaped, leaving the women, who however joined them in a day or two afterwards, while Love, having other engagements, gave up for the time any further pursuit. It appears that the robbers proceeded next to the Tejon; and it was said that they were there themselves robbed not only of their horses but also of their arms and even clothing by the Tejon Indians and had to travel for a day or two on foot and naked. It was even added that the captain of the Indians had them whipped as vagabonds and that Joaquin was so amused at the absurdity of the incident that he refused to take, or allow any of his party to take, revenge.¹ But this story, as well as much else that was told about Joaquin, does not comport with what is known of the man and was doubtless only one of the many incredible reports that were invented and repeated by irresponsible scribblers for the purpose of investing Joaquin with a magnanimity of character that did not belong to him and thereby pandering to a vitiated taste in certain lower levels of the reading community.

The next place in which the outlaws committed depredations

¹ Ridge's Life of Joaquin Murieta, 19-25.

was Los Angeles county, where all the different parties came together, including Claudio who had just returned from driving a large number of the stolen horses into Sonora. While sojourning there, Pedro Gonzales appears to have operated to some extent in the neighborhood of the Camulos rancho, one of the places of refuge of the band, and fell into the hands of Captain Love, who had been on the watch. While Love was conducting him to Los Angeles, where he would undoubtedly have been hung, Joaquin, Claudio and a few others, hearing of the arrest, determined to overtake Love and release Gonzales and set off on their mission at once. By riding all night and with the utmost urgency, as their bloody spurs and the foam on their horses attested, they came in sight of Love and his prisoner just at daybreak. Gonzales, anticipating a rescue, looked back and waved his handkerchief, whereupon Love, comprehending at a glance the situation, drew his pistol, shot Gonzales through the heart and then, putting spurs to his own horse, was soon far beyond the reach of the pursuers. Not long after that, while Joaquin and Garcia or Three-fingered Jack were traveling at night near the mission of San Gabriel, they came across a couple of Chinamen, who were camping by the roadside. Three-fingered Jack woke them up and seems to have richly enjoyed the terror he caused in frightening them with his pistol. Upon examining their purses, which they were only too glad to relinquish, and finding that they contained not more than twenty or thirty dollars, the fiendish monster drew his knife and cut their throats. And not long after that and in the same neighborhood Joaquin and Garcia together waylaid and, after a desperate fight, killed General Bean, at that time a resident of San Gabriel, who had made himself very active in attempting to run down and capture the outlaws.¹

From Los Angeles county the band moved to Calaveras county and was said to have thence crossed over the Sierra Nevada to the Mono Lake region and from there made its way around, by the way of Kern river, to the San Joaquin valley again. About this time it was learned that Reyes Feliz, Joaquin's so-called brother-in-law, had been seized and hung at Los Angeles.

¹ Ridge's Life of Joaquin Murieta, 25-30.

Not long afterwards a desperate fight occurred near San Luis Obispo between the outlaws and a party of pursuers from Santa Barbara county, in which a number of persons on both sides were killed and among them Joaquin's lieutenant Claudio, though other accounts say that he was not killed until afterwards. The band then moved over again to Mariposa county and on the Merced river robbed a company of miners of fifteen thousand dollars. From there they went to Stockton, near which, in the slough leading to the San Joaquin river, they attacked a schooner, killed the crew and several miners who were passengers, and robbed their bodies of twenty thousand dollars. About the same time it appears to have been determined to move to Sonora in Mexico, whither a remittance of fifty thousand dollars was despatched under charge of Valenzuela and a drove of nearly a thousand stolen horses under charge of Garcia. The intention, according to report, was to collect the entire band, then over a hundred in number, and march them openly like a hostile army of marauders, relying upon their celerity of action to escape overhauling, except by such force for which their armed strength would be more than a match. Meanwhile robberies and murders continued in Calaveras and El Dorado counties; and on one occasion, when a member of his band was being examined for a capital offense before a justice of the peace, Joaquin coolly strode into court, pretended to be Samuel Harrington of San José, a man whom he had shortly before murdered, presented letters he had taken from Harrington's person in proof of his pretensions, and succeeded by his perjury in procuring the discharge of his minion.¹

The early part of the year 1853 was full of dastardly and mysterious murders and robberies, all planned by Joaquin and all apparently intended as a finishing up of his career of crime in California. They took place now in one quarter and then in another, sometimes in different places at the same time. But they were principally in Calaveras, Tuolumne and Mariposa counties. In January a desperate fight took place among the cliffs of Chaparral hill, about four miles southwest of San Andreas, between Joaquin with a number of his men and a party of citizens

¹ Ridge's Life of Joaquin Murieta, 30-57.

led by Deputy Sheriff Charles H. Ellas, in which one or two citizens were killed and three of the robbers killed or fatally wounded; and soon afterwards a vigilance committee hung a friend of the robbers and tore down and burned up several houses where they had been harbored. Not long after these events Joaquin and Garcia killed two men at the Phœnix Quartz Mill; when, finding Ellas and his party hot on their trail, they were obliged to skulk from cover to cover, but still kept up their practice of murder and robbery upon lone travelers or unarmed mining parties. Near Murphy's Diggings they killed and robbed two miners, who had just made fortunes and were on their way home, and threw their bodies in a prospector's hole. And a little further on they robbed a camp of six Chinamen, on which occasion Garcia got the trembling Mongolians together; stood them up in a row before him; tied their queues to one another, and then, drawing his immense blacksmith-made bowie-knife, commenced slowly and deliberately cutting their throats one after another and enjoying their frantic shrieks. He had previously remarked that he loved to smell the blood of Chinamen—and, besides, it was such easy work to kill them; it was a kind of luxury to cut their throats.¹

By this time the whole country was alarmed. Numerous parties began to organize for the purpose of hunting them out, as they would hunt out rattlesnakes. But curiously, though the name of Joaquin was in everybody's mouth, very few persons knew him or could point him out. And therefore he often went into the towns and even talked with citizens about himself, without their having any idea with whom they were talking. Among other citizens greatly interested in, and very desirous for, the capture and punishment of the outlaws and the security of life and property in the country, was Caleb Dorsey, a prominent lawyer and sawmill proprietor of Sawmill Flat in Tuolumne county. Hearing one day that Joaquin was at a Mexican fandango at a little place called Martinez in the neighborhood, he and a friend went there. All the Mexicans, however, denied that Joaquin was present and affirmed that he was many miles distant. Dorsey fell into conversation with a very ordinary

¹ Ridge's Life of Joaquin Murieta, 39, 57-68.

looking man, apparently a Mexican, whom he found there, upon the subject of Joaquin's whereabouts. The man remarked that it would be very foolish to attempt to arrest the brigand, as he would certainly never allow himself to be taken alive. Dorsey replied that it did not matter much how he was taken, whether alive or dead; for all that the Americans wanted was to put an end to him and that they were bound to have him at any rate. But no information could be gained as to where Joaquin was; and Dorsey and his friend returned home. Upon further information, and to their great disappointment and disgust, they learned that the man with whom Dorsey had been talking about Joaquin was Joaquin himself!

Very soon after the above mentioned conversation, and probably in consequence of what Dorsey had said about the feeling of the Americans towards Joaquin, an attempt was made to kill off a portion at least of the people of Sawmill Flat by poisoning a spring, which furnished them with water; but fortunately, on account of the extreme diffusion of the drug used, the villainous project failed. It became known, however, that Dorsey and a friend of his, named Ira McCrea, who kept a store at the Flat and was equally obnoxious to the robbers, together with a few others, had been marked out by Joaquin and their death resolved on. So certain was this, according to general understanding, that several of the marked men moved away, though Dorsey and McCrea continued at their ordinary occupations and were only more careful to be always on the alert and always ready for an attack. In the midst of the excitement, it was reported one day that McCrea's store was to be robbed that night; and on the strength of the report a messenger was despatched to Columbia for help. In response to the summons, a military company of that place, under command of Colonel Thomas N. Casneau, hastily collected, burnished up their arms, decorated their hats with feathers and, taking along a little brass cannon used for firing salutes and good only for making a noise, which they discharged every hundred yards, marched to Sawmill Flat. It is doubtful whether any attack upon McCrea's store was in fact ever contemplated; but, whether so or not, none was made. The military, however, had to be provided for; and, as they were very

hungry and especially thirsty after their march, they made such a raid upon eatables and drinkables as to completely clean out the entire supply; and, according to common talk, it was ever afterwards a question whether it would not have been cheaper to have been robbed by Joaquin's men than it was to be protected by Casneau's.

Not very long subsequently Dorsey, while attending to law business in Sonora, was appointed by the court to defend a prisoner under arrest for horse stealing. Upon investigation the attorney found that his client was one of Joaquin's band and one of those who had been specially commissioned to kill Dorsey. On further investigation it appeared that the man had on several occasions since the Sawmill Flat incidents met Dorsey in out-of-the-way places and would have killed him, if he had known who he was. All this he was willing to admit. But now, he said, circumstances were different. He had been unlucky and was in trouble. But, if Mr. Dorsey would defend him and so manage matters as to free him, he promised that Mr. Dorsey should in future receive no harm from the robbers and that Joaquin would ratify the agreement. Dorsey consented and succeeded by extra effort in having the accused discharged; and from that time he considered himself safe. On several later occasions he met some of the robbers and once or twice befriended them; and they on their side appear to have kept their engagement. On one special occasion, after the robbers had informed him of their intention of leaving the country and proceeding to Mexico and promised him the present of a splendid horse and trappings for favors received, he suddenly and unexpectedly on a lonely road met Joaquin himself magnificently mounted. Both upon the first impulse drew their pistols; but the next moment Joaquin, recognizing Dorsey, lifted his hand and crying out, "We keep our word: you are safe, sir!" passed on; and from that time forward, it was Dorsey's opinion that he had thus seen the "splendid horse and trappings" promised him and that he would have received them if it had not been for circumstances which prevented the gift as well as the contemplated march of the robbers to Mexico.¹

It would be impossible, on account of the numerous contra-

¹ History of Tuolumne County, 207-216.

dictory as well as apocryphal accounts of the doings of Joaquin and his band, to affirm with certainty as to many of the murders and robberies attributed to him. It is certain, however, that he was for several years at the head of a desperate band of villains and that, though he did not hesitate to rob and murder Americans and fight officers of the law and others who went on the hunt for him, he and his band did not disdain but rather enjoyed depredating on the Chinese and other helpless persons who were most exposed to their cowardly and despicable attacks. So great were his misdeeds and so extensive the terror produced that the legislature of the state of 1853 was obliged to take notice of them. Among other propositions before that body was one to offer a reward of five thousand dollars for the arrest of Joaquin "dead or alive;" but J. M. Covarrubias of the committee on military affairs, to whom the matter was referred, presented a report to the effect that to set a price upon the head of an individual, who had not been examined or convicted, was to proceed upon the assumption of his guilt—implying that such was not exactly the correct mode of procedure of a great state. He further said that it would require superhuman power to do all that had been attributed to Joaquin and to be in all the different places at the times stated. Besides, the offer of so large a reward might stimulate cupidity and so magnify fancied resemblances that a dozen heads, similar in some respects to that of Joaquin, might be presented for identification. It would not be difficult to fraudulently palm off the head of another person for that of Joaquin, just as it had been easy to mistake Burdue for Stuart. And still further, he added, it was to be remembered that one of the supposed names of Joaquin the robber was Joaquin Carrillo and there were several respectable citizens in the state of that name. This report, which was presented on April 14, prevented the proposition of a reward.¹ But not long afterwards, the legislature passed an act authorizing Captain Harry S. Love to raise a company of mounted rangers, not to exceed twenty men, and muster them into the service of the state for three months unless sooner discharged by the governor, for the purpose of capturing the party or gang of robbers commanded

¹ Assembly Journal, 1853, 414.

by the five Joaquins, whose names were Joaquin Murieta, Joaquin Ocomorenia, Joaquin Valenzuela, Joaquin Botellier and Joaquin Carrillo; from which it appeared that even at that time it was not known for certain who the head of the brigands was or what was his real name. This act was approved by the governor on May 17, 1853.¹

In accordance with this act, which provided that the men should be paid one hundred and fifty dollars a month each, Love immediately organized his company of rangers and at once took the field. Among his men were several noted for desperate conflicts—one being Walter H. Harvey, the slayer of Major Savage of Yosemite fame, and another Philip T. Herbert, afterwards a congressman from California, who distinguished himself by shooting down a waiter in one of the hotels at Washington. Others of this company, though not so noted, were more reliable. They all, upon taking the field, started directly on the tracks of the robbers and followed them, branching in some places and coming together in others, to the plains of the San Joaquin valley west of Tulare Lake. They there on Sunday morning, July 25, 1853, suddenly came upon a party of men, evidently Mexicans, sitting around a fire, with their horses some little distance off—all but one who had his horse by him. Love, who with a few others was in advance of his company, addressing one of the Mexicans, asked where they were going and received an answer that they were going to Los Angeles; when the man with the horse spoke up and said, if any more questions were to be asked, to address him as he was the leader of the party. Love replied that he would address whom he pleased. The man advanced a few steps towards where his saddle lay on the ground, when Love ordered him to stop. He walked on without heeding the order, when Love drew his revolver and said that, if he did not stop on the instant, he would blow his brains out; whereupon the man, grating his teeth, turned around and, seeing that Love was in earnest, stepped back and again laid his hand upon his horse's mane. As a matter of fact this man, who was armed at the time with only a bowie-knife and whose object in going towards his saddle was to get his pistols,

¹Stats. 1853, 194.

was Joaquin Murieta, though Love did not know him; and one of his companions was Garcia or Three-fingered Jack.

Joaquin and his party, being unknown to Love, might possibly have managed to get away; but at that moment William Wallace Byrnes of Love's company, who knew Joaquin and whom Joaquin knew, rode up; and the moment Joaquin's eyes fell upon him he called out to his men to make their escape. On the instant Garcia bounded off, and a number of the rangers followed, firing at him as he ran. Attention being thus diverted, Joaquin sprang upon his horse and without saddle or bridle made a dash for a rough and rocky ravine not far distant. A dozen shots followed; but they only added speed to Joaquin's horse, which coming to the ravine plunged down a bank some ten or twelve feet high and fell violently, throwing his rider. Both however recovered their feet and Joaquin, again mounting, was again flying as if on the wings of the wind. One of the rangers followed so close that his horse also made the plunge and the tumble; but before he could recover himself Joaquin was far ahead. Another of the rangers, however, taking a deliberate aim with his rifle at the horse, sent a ball through its body; and with a sudden gush of blood from mouth and nostrils it fell dead. Joaquin, jumping to his feet, attempted to run; but he was soon overtaken by several of the rangers and was shot several times, as was said, by Byrnes. When the third ball struck him, he turned around and, facing his pursuers, said, "Don't shoot any more: the work is done!" He stood for a few moments and then, slowly sinking upon his right arm, expired.

Garcia, meanwhile, was running with desperation in another direction, pursued by Love and other rangers. He is said to have run nearly five miles before he fell, pierced with nine balls. He leaped over the sandy ground like a chased wild beast, while the horses of his pursuers frequently stumbled. When nearly overtaken he would wheel and, with glaring eyes, discharge his revolver; but, though usually a good marksman, his shots went wide of their mark. Love, who had hit him twice before in the long chase, finally shot him through the head; and the desperado fell with his pistol in his hand, which he had emptied of

every load except one. Two others of the robbers were killed and two taken prisoners, while two or three escaped. A number of horses were recovered, six elegant Mexican saddles and bridles, a number of pistols and spurs and five or six broadcloth cloaks. No money or gold-dust was found; but it was supposed that considerable had been thrown away. Of the two prisoners, one escaped from his captors near the San Joaquin river and drowned himself; the other was taken to the Mariposa county jail, where he was one night seized by a mob and hanged; and the report at the time was that he was hanged not by citizens but by Mexicans who were afraid of his disclosures. Whatever may have been the truth as to this report, it was certain that Joaquin's band was completely broken up; and, in addition to the ordinary prejudices against all foreigners, it was especially dangerous to be suspected of having been one of or in any way connected with Joaquin's banditti.

Such, as near as can be ascertained, seem to have been the main facts about Joaquin. It was supposed at the time of his death, as soon proved to be the case, that there would be much doubt thrown upon the subject as to whether the right man had been secured. To make as sure as was possible under the circumstances, his head was cut off and carried to the nearest place where alcohol could be procured, and there placed in a jar of that liquid. Garcia's head and three-fingered hand were also cut off with the intention of preserving them; but the head, mutilated by Love's pistol-ball, would not keep and had to be otherwise disposed of; and only the hand was preserved. Joaquin's head, in its jar of alcohol, was afterwards exhibited in various places and among others in San Francisco at the "saloon of John King, Sansome street," accompanied by several affidavits of identification, one of them by Father Dominic Blaine. Notwithstanding various stories that the real Joaquin was never taken and the uncertainty thrown upon the subject by the remarkable act of the legislature of 1853, which spoke of "five Joaquins," there can be little or no reasonable doubt that the man killed was the right one or that the right man was killed. He at least gave no further trouble. And subsequently the governor of the state paid to

Captain Love a reward of one thousand dollars, which he had offered for the capture of the bandit; and the legislature of 1854 by an act, approved May 15, 1854, gave an additional sum of five thousand dollars.¹

¹Ridge's Life of Joaquin Murieta, 68-81; Stats. 1854, 170; San Francisco Morning Call of April 3, 1892.

CHAPTER V.

CALIFORNIAN FILIBUSTERS.

TO the same general causes that called forth Joaquin Murieta and his banditti must also be attributed, in part at least, that other species of lawless aggression known, on account of its similarity to piracy, as filibustering. In this species of criminality early California was somewhat prolific. Particularly while the country was in a state of comparative isolation or, in other words, before the establishment of that rapid and uninterrupted communication with the east, which has to a great extent put a stop to those remarkable separate and independent movements, various schemes were conceived and projects undertaken to seize upon and appropriate portions of the territory and jurisdiction of Mexico and Central America. Partly the outgrowth of the unprecedented condition of social and economical affairs in California, these attempts were also more or less influenced by the peculiar situation of political matters not only in the United States but likewise to some extent in Europe. On the one hand the number of adventurers, and especially foreigners that had been driven from the mines, who were ready for almost anything that promised lucrative employment, and on the other hand the success, which had attended previous raids upon the territory of Mexico, and the many great prospective rewards of further successful encroachments not only encouraged but gave a strong and in some quarters irresistible impetus to filibuster expeditions.

It was Frenchmen that started the business in California. One of these was a young man, belonging to an ancient family of Provence, born at Avignon on December 2, 1817. He was known as the Count Gaston Raoul de Raousset-Boulbon. He had been well educated at Fribourg and possessed abilities; but, while, like most of the scions of noble houses, he considered

himself a much abler and more deserving man than he was, he on the other hand, unlike most young men of his birth, had considerable energy and courage. He lost his mother in early infancy and grew up a wayward, hot-tempered boy, in constant discord with an unsympathetic and severe father. Soon after attaining his majority he ran through with such fortune as had been left him, and which would have been amply sufficient for a man of modest pretensions, and then in 1845 went as a sort of colonist to Algeria, where he spent his time chiefly in organizing great hunts and taking part in military expeditions. Returning to France, he made several unsuccessful attempts to be elected to the French legislative assembly and established an ephemeral newspaper to advocate his claims. In 1850, as a sort of last chance, he joined one of the numerous companies for emigration to California, gotten up under all sorts of exaggeration and false pretenses in Paris, and traveling as a steerage passenger by way of Southampton and the isthmus of Panama reached San Francisco on August 22, 1850. Curiously enough, almost immediately upon landing, he started in to make an honest and respectable living by very hard work—that is to say: he purchased a lighter, hired a couple of sailors to help him, and devoted himself assiduously to the occupation of unloading vessels anchored in the bay. Though a man of slight build and small figure, with blue eyes and blond hair and without any great physical strength, he was still active and efficient and appears to have done a very good business until lightering was substantially done away with by the completion of Commercial street and other wharves, when he sold out his boats and had to seek other means of livelihood.¹

Among the French sojourners in and about San Francisco in those days was another individual, of ancient family, known as the Marquis de Pindray. He was a man of large size, having distinguished-looking features, with reserved manners; was said to have been obliged to leave France on account of some shady money transaction, and had the reputation of being a ruined gentleman, an expert duelist and a great hunter. He

¹ Le Comte Gaston de Raousset-Boulbon, &c., par A. de Lachapelle, Paris, 1859, 7-51; Le Comte Gaston de Raousset-Boulbon, &c., par Henry de la Madelene, Paris, 1876, 44-47.

made his living by shooting game around the bay shores and supplying to some extent the demands of the French restaurants and San Francisco markets. It did not take long for the big marquis and the little count to meet. They seem to have first come together in what was known as the Polka Saloon, where Pindray was leaning against a column and looking, apparently without much interest, upon a dance, when Raousset introduced himself with the words, "Vous êtes le marquis de Pindray, oui, Monsieur? Et moi, je suis le comte de Raousset-Boulbon—You are the Marquis de Pindray, are you not, sir? I am the Count de Raousset-Boulbon." Upon being thus addressed Pindray at once relaxed and became communicative and, among other things, fired Raousset's imagination with stories about hunting in California and especially about his conflicts with the terrible grizzly bears, which were still comparatively plentiful in the neighboring mountains. Raousset became so worked up with these accounts that he determined to rival Pindray and, shouldering his carbine, set out for Monte Diablo and ascended to its summit, in part to see an imaginary lake, of which Pindray had given him an enchanting description, but more particularly to slay a grizzly—his intention being to send its skin to an illustrious French lady with an inscription, written in the brute's own blood on it, "A madame, la duchesse de G. Le comte de R.-B.—To Madam, the Duchess de G. The Count de R.-B." Luckily he met no grizzly; and he returned from his trip, not indeed cured of a disposition, thus manifested, to undertake visionary projects—for the incident was typical of his subsequent career—but pretty well used up with fatigue and thoroughly convinced that hunting grizzlies, to send their skins to duchesses, was not a profitable business.¹

A strange spirit of antagonistic rivalry as against Pindray seems to have impelled Raousset from the time they first met. In the winter of 1850-51, Pindray, who was ready to turn his hand to almost any employment, engaged himself as a vaquero and undertook to drive a herd of cattle towards Humboldt bay. Raousset about the same time, and apparently acting on the suggestion of Pindray's movements, took passage from San

¹ Lachapelle, 14, 52-55.

Francisco to San Pedro and thence went to Los Angeles and San Diego, where he purchased a herd of cattle and drove them northward, apparently by the way of San José, to Stockton. His venture proved unprofitable; but it was said that while enjoying the open-air camp life of a cattle drover, down in the southern country almost within sight of the Mexican line, he made up his mind to penetrate into and make himself master of Sonora. It appears that Pindray had already talked to him about a project of that kind and proposed a union between them for an expedition; but Raousset had declined. Some said he was unwilling to connect himself in any intimate manner with Pindray or his reputation; others, that he felt himself too much a born commander to be willing to share authority with anybody else and much less to occupy the subordinate position which a joinder with the marquis would involve. However this may have been, Raousset did not unite with Pindray, nor ever meet him again; but, after returning to San Francisco with an empty purse and a head full of ideas about Sonora, he took a trip to the mines at and in the neighborhood of Mokelumne Hill to see what could be done towards getting up an expedition for himself.¹

While thus employed, he learned that Pindray had gone off with about one hundred and fifty French followers, under the name of colonists, for Sonora. They had landed at Guaymas and appear to have been the first to offer their services in answer to a call from the Mexican government for volunteers to protect its frontiers from the incursions of the Apaches. In return for their proffered services, they had received the concession of a tract of land in the rich valley of Cocospera, about twenty-five leagues westerly from Arispe, to which place they marched and settled down. It may be somewhat doubtful what these men expected or intended; but it seems very certain that there was little or no cordiality between them and the Sonorans: on the contrary there were constant disagreements, and especially on the part of Pindray, who as the leader and representative of the French had to act as the exponent of their complaints and demands. This state of affairs had not lasted long when Pindray was found dead, with a bullet-hole in his temple, at a

¹ Lachapelle, 56-58.

little village, called Rayon, about half way between Hermosillo and Arispe. Some said he had been assassinated; others, that he committed suicide. Nothing definite about the manner of his death appears to have been ascertained; and the matter remained and still remains an unsolved mystery.

Raousset was rather spurred up than otherwise by the fact that Pindray had anticipated him; but he seems to have gone to work much more diplomatically and methodically than Pindray had done. He went to Patrice Dillon, the French consul at San Francisco, and laid before him his plans; and Dillon encouraged them on the pretense that they would offer a welcome opening for the numerous impecunious and unemployed Frenchmen, who had been disturbed in their mining by the movements against foreigners and were disgusted with California. It seems likely that Dillon was at heart quite as much of a filibuster as Raousset. But he exhibited himself in a different manner. While Raousset, with the enthusiasm of youth, was dreaming of conquest and determined to make a grand effort, which would lead either to glory or to death,¹ Dillon, sitting safely and securely in his consular seat, plotted for a lodgment of French forces on Mexican soil. One of the fundamental ideas of Raousset, and a part of his plan, was to place a barrier to the advance of the United States, which he believed would otherwise within a few years become master of the world;² and in this idea—so well calculated to recommend, and redound to the credit of, every promoter of the France of Louis Napoleon—Dillon, if not the original suggester, appeared fully to sympathize and share. And it was apparently with this idea in view, but with a much more far-reaching purpose than appeared on the surface, that he had entered into correspondence

¹On April 4, 1852, he wrote: "Des les premiers jours de ma venue en California, j'ai sente que je ne pouvais me relever que par un coup d'éclat; j'ai résolu de chercher une de ces grandes aventures qui conduisent au succès ou à la mort."—Lachapelle, 88.

²On December 14, 1853, he wrote: "S'ils ne se disloquent pas, s'il ne s'élève pas à côté d'eux une puissance rivale—par leur commerce, par leur marine, par leur population, par leur position géographique sur les deux océans, les Etats-Unis seront les veritables maîtres du monde. Dans dix ans, il ne se tirera pas un coup de canon en Europe sans leur permission."—Lachapelle, 152, 153.

with Levasseur, the French minister at Mexico, to bring about a new concession to a proposed new French-Mexican company, to be known as the "Compania Restauradora," with the avowed object of re-opening the famous mines of Arizona, which had been abandoned on account of the incursions of the Apaches, and keeping off the Indians. To carry out his scheme, as well as take advantage of Raousset's zeal, Dillon in February, 1852, sent him to the city of Mexico, where, after several months of persistent work, he managed to obtain from President Mariano Arista the desired concession and an undertaking on the part of the banking and business house of Jecker, De La Torre & Co. to furnish the necessary funds, on condition that Raousset, with a company of Frenchmen armed and equipped for war, would without delay proceed to Sonora.¹

Upon his return to San Francisco, fortified with this concession and having the ostentatious favor of Dillon, Raousset found no difficulty in recruiting a company of two hundred and fifty Frenchmen, with whom he immediately departed for Guaymas, which place he reached by sea about the beginning of June, 1852. He was at first well received; the bells were set ringing, and there were a thousand other demonstrations of welcome. But the principal officials were all more or less cold and distant; and some of them, pointing to several cannon which Raousset had taken along, ironically asked whether he expected to pursue the Apaches with artillery. One of the first checks received by the French troupe was an order from Miguel Blanco, the general-in-chief of Sonora, directing it, instead of proceeding to the interior, to remain at or near Guaymas until further order; and it was not for a month that it was permitted to march. During the enforced delay, while the French on the one hand were addressing assiduous devotions to Bacchus and dropping from one degree of demoralization to another and still lower one, the Mexican officials on the other hand, as was charged, were busying themselves with exciting jealousy and sedition among the adventurers and promoting the schemes, in which they were personally interested, of a rival company secretly organized in opposition to the Restauradora under the name and auspices of the banking house

¹ Lachapelle, 85, 86.

of Bolton & Barron of San Francisco. At length, at the end of about a month, after considerable disorder and some revolt, permission being obtained, Raousset marched his men almost directly northward through Hermosillo and towards Arizona, and had proceeded as far as Saric, the site of an old abandoned mission called El Saric, near the frontier and about a hundred miles in a direct line northwest of Arispe, when he received a second check in the form of an order from General Blanco requiring him to present himself immediately at his head-quarters in Arispe.¹

Raousset seems to have hesitated about obeying the order; he felt that it boded him no good, and his associates opposed his complying with it; but he finally made up his mind to go to Arispe and set out on his way thither. The road led him to the neighborhood of Cocospera, where he met a remnant of Pindray's colony about eighty in number. These men had been persuaded that the Apaches, on account of the plentifullness of silver in the country and want of lead, used bullets of the former metal; and they were at this time hunting for a supposed mountain of silver. Raousset naturally entered into conversation with them and explained his situation, when they at once gave up their search for silver, ranged themselves under his command and induced him, instead of going to Arispe, to turn around and lead them to Saric, where his own soldiers, belonging to the Restauradora company, were encamped. This was about August 20, 1852, on which day Raousset wrote to Blanco that he had been obliged, on account of several weighty reasons, to turn back when within twenty-five leagues of Arispe and return to Saric; but that he had sent a representative in the person of Monsieur Garnier with full powers to make any and all kinds of arrangements and engagements that might be necessary. Garnier accordingly proceeded to Arispe and opened negotiations with Blanco; and the result was a series of three alternative propositions, known as Blanco's ultimatum, which at once and for the first time clearly demonstrated the position and feeling of the Sonoran officials towards Raousset and his associates. This so-called ultimatum was received at Saric on August 28. It required either, first, that the French should consent to denationalization or, in other

¹ Lachapelle, 86-102.

words, should become Mexican soldiers and range themselves under the superior orders of the commander-in-chief, with Raousset as captain, in which case they might proceed to Arizona, seek for mines and take possession and work them; or, secondly, they might remain where they were and wait for letters of security to be sent for and to come from the city of Mexico, which would enable them to freely travel throughout Sonora though not to take or hold any lands or mines, but on the contrary would subject them to be considered and treated as strangers incapable under an old law of the country of possessing any real property; or, thirdly and lastly, they might reduce their company to fifty men and put themselves under the command of some responsible Mexican leader, in which case they might proceed to Arizona, search for and denounce mines and take possession of them in the name of the Restauradora company.¹

Upon the receipt of this message from Blanco, Raousset called his followers together and informed them that they were free to pursue any course they pleased, either in following or leaving him—it being understood that he would not accept any of the alternatives. But it was hardly necessary to offer them any choice; for, as soon as they heard the propositions, they began to hoot at Blanco; stuck up his missive on a tree as if in a pillory to mock at and revile it, and then howled for vengeance. Not a man left the camp or thought of doing so. Raousset thereupon wrote to Blanco, recalling the agreements and arrangements made with him by the Mexican government, rejecting absolutely all the clauses of the ultimatum, and adding that either the authorities at Mexico had practiced intentional deception or General Blanco paid no respect to orders from the general government. He was answered that his letter made him an insurgent and that there was talk, if he persisted in his course, of treating him as a pirate. At this threat Raousset became very indignant and, while protesting that he would never allow his companions to suffer the indignities offered them, he exclaimed for himself that neither force, nor intimidation, nor self-interest could make him forget what he owed to himself and that his fortune and even his life were nothing, absolutely nothing, to him

¹ Lachapelle, 102-108.

when his honor was in question.¹ Meanwhile both parties prepared for a conflict. The Mexican officials began collecting forces and, among other things, not only wrote to the remnants of the Pindray colony that they should not join Raousset but remain at Cocospera under penalty of forfeiting all their rights to lands and goods for violation of their treaty with the government; but they also wrote, and Blanco issued a proclamation to the effect, that he would receive and protect all who would desert Raousset, and that all who should follow him would be turning their arms against the Mexican republic and would infallibly be chastised—representations and threats to which they paid no attention. On the other hand Raousset, besides drilling his men, began inviting the rancheros of the neighborhood to join him and march under a new flag, which he would prepare, for the independence of Sonora. He seized wherever he could, except from friends, such supplies as were necessary for his troops and gave in return drafts drawn by himself on the Restauradora company and Mexican government. He also captured and converted to his own use a convoy of thirteen mules loaded with provisions for Blanco's men and on September 21, 1852, raised the standard of independence above described.²

On October 23, after a sojourn of about six weeks at or near Saric, Raousset marched for the city of Hermosillo situated on the Sonora river about one hundred and fifty miles a little east of south from Saric and about seventy-five or eighty miles north of Guaymas. He does not appear to have been looked upon as a rebel or enemy by the people in general: on the contrary he and his associates talked on the march, and in the neighborhood of Hermosillo talked freely, with hundreds of country people about the independence of Sonora; and they all answered his representations and solicitations with their invariable "Si, si Señor—Yes sir, yes sir." The women especially were almost all for the French and independence. The French on the other hand seem to have been more or less deceived and thrown off

¹ "Ni la force, ni l'intimidation, ni l'intérêt ne me feront oublier ce que je me dois à moi-même. Ma fortune et ma vie ne sont rien pour moi, absolument rien, là où mon honneur est en question."—Lachapelle, 119.

² Lachapelle, 105, 109-121.

their guard by the appearance of popular good will that was manifested towards them. They danced with the *señoritas*, drank deep of the mescal or aguardiente of the country and more than once only escaped by accident from being taken by surprise by their enemies, the government forces. As for Raousset, he described himself about that time as at the head of two hundred and fifty adventurers, half of them heroes and half bandits, who like Van Amburg's tawny beasts would obey none but a known voice. He felt that there were among them few that could assist him and not one capable of taking his place. He therefore was and had been a very busy man, with all the responsibilities upon his own shoulders,—now traversing fifteen, twenty, thirty or even forty leagues to visit widely separated pueblos or populations, now negotiating with warlike Indian tribes, again relighting or replenishing the fires of revolutionary enthusiasm and at the same time not omitting his devoirs to a blond Mexican mistress, daughter of one of his enemies, the prefect of Altar.¹

Under the circumstances one of the most extraordinary events or series of events of the country took place at Hermosillo in the course of the next couple of days. That city, which contained about twelve thousand inhabitants, was in the military occupation of General Blanco, who had about twelve hundred soldiers under his command, with plenty of fortifications in the way of adobe houses and cannon. A portion of his men were posted in a sort of fortress at the head of a bridge, crossing a ditch, over which the French would have to approach; and, with anything like courage, or rather with almost anything except pusillanimous cowardice, the Mexicans could have directed a plunging fire upon their assailants and blown them into atoms. Another portion of his men, amounting to at least five or six hundred, were posted in and about a public garden, known as the Alameda; and, with anything like bravery, they alone might have surrounded the French and finished them in short order. But instead of any thought of this kind, the first move on the part of the officials was to send out, in the name of the prefect, several delegates with offers of money if the French would leave the city alone.

¹ Lachapelle, 121-124.

The only answer Raousset made was to draw his watch and exclaim, "C'est huit heures; dans deux heures j'attaquerai la ville; à onze heures j'en serai le maître. Allez dire cela à votre préfet—It is eight o'clock; in two hours I will attack the city; at eleven o'clock I shall be master of it. Go tell this to your prefect." He then turned his back upon them and prepared for his apparently foolhardy but in fact very clever assault upon the city. His soldiers acted more like demons than like men. They became mad with what was called the "furia francesc" or French rage and, raising the cry of "Vive la France," rushed forward, careless of opposing numbers and blind to danger. Their dash was too much for the Mexicans at the head of the bridge; those who could get away turned and fled; the others, who were not killed in the fierce assault, were taken prisoners. From there the French rushed into the city and to the Alameda, where the Mexican forces were concentrated. The first who reached that spot was O. de Lachapelle, the leader of the Pindray colony, who galloped on ahead of his soldiers. He was followed not long afterwards by cavalry-officer Lenoir, who asked what he was doing there alone, exposed to a rain of bullets, to which he coolly replied, "Waiting for you, sir." But hardly were the words spoken, when all together rushed upon the Mexicans and drove them from the field; and the French were masters of Hermosillo. Blanco galloped off on the road towards Ures. His loss was two hundred killed or wounded. Raousset's loss was seventeen killed and twenty-three wounded.¹

Nothing like such a victory had been heard of, even in Mexico. When the news of it spread abroad, the first impression was that a new military genius had appeared—a new Napoleon without Napoleon's long preparatory military training; but it was soon found out that the taking of Hermosillo was much more due to the pusillanimity of its defenders than to the bravery of its assailants. On first impressions, however, it seemed that the French had done wonderful things; and, as the noise of their victory spread throughout the country, it would have been perfectly easy for Raousset, if he had preserved his conquest even for a short time, to attract to his standard men enough not only

¹Lachapelle, 125-127.

to take all Sonora but for that matter to take all Mexico. But unfortunately for himself and for his cause, Raousset was neither a general, a statesman, nor even a politician; he did not appreciate his position, had no conception of public affairs and knew no more of taking advantage of the luck into which he had blindly fallen than one of Blanco's Yaqui Indians. The only excuse for his actions that can be urged with any show of reason is that his men were unreliable and that he himself, as well as his best lieutenants, was seriously ill. Whatever may have been the reason, instead of attempting to hold his conquest and awaiting recruits, he at once began negotiations to be allowed to retreat, without disturbance, to Guaymas. The government of Sonora had just passed into the hands of Governor Gándara; and he very willingly consented to the terms but insisted that Hermosillo should be evacuated forthwith; and it was immediately done. On October 26, as the French quitted the city on one side, the defeated Mexicans marched in on the other and re-occupied it.¹

Upon approaching Guaymas, on his way back, Raousset was met by several merchants of that place, who on behalf of General Blanco proposed an armistice of forty-eight hours and negotiations with a view to an accommodation of differences. To both these propositions Raousset consented, and not only consented but abandoned his own camp and took up his quarters in that of General Blanco. He even refused the guard of his own cavalry and demanded and received a Mexican escort of thirty men. He afterwards explained his action by saying that, instead of abandoning his men, he was too ill to lead them and that, in the absence of a competent leader to take his place, they fell into disorder and abandoned him.² It was very evident that there was no cohesion among them. Courage doubtless remained; but there was no discipline; and, when in the course of negotiation an offer was made to charter the bark Alert and send the French back to San Francisco, it was immediately accepted.

¹ Lachapelle, 128-133.

² Raousset wrote: "Lorsque je me suis vu abandonné par mes gens qui, incapables de se conduire euxmêmes, pendant ma terrible maladie, se sont soumis, vainqueurs à un général vaincu."—Lachapelle, 138.

The sum of eleven thousand dollars was forthwith paid down by Blanco; the bark engaged; and a large part of the adventurers shipped back to the port whence they had last come. The expedition was entirely broken up. Most of the remainder seem to have chosen to remain in Sonora and in effect became Mexican citizens. Raousset himself, whose health appears to have been seriously impaired, proceeded to Mazatlan in Sinaloa, where he lay a long time convalescing.¹

While there he received a letter from Dillon, the French consul at San Francisco, whose underhanded filibustering scheme against Mexico had thus far proved abortive, urging him to a renewed attempt.² Seduced by this invitation Raousset at once returned to San Francisco. Upon his arrival there he found himself the center of very marked attention. He had probably been as much surprised as anybody else—and certainly ought to have been—at his taking of Hermosillo. But it served, especially with people who did not know the facts, to make him a hero. He was lionized and got a taste of glory. The result was that, if his head was not turned before with the idea of taking Sonora, it became turned now. That idea more than ever took entire possession of him and became fixed. He often said that without Sonora he could no longer live,³ and that his return to Sonora was the only thought of his life.⁴ But there seems to have been one important particular in which his ideas about Sonora had changed. His thought originally was to form a barrier against the United States by opening the plains of Arizona to the immigration of everything that was not Anglo-Saxon;⁵ now it was to make a sort of new California out of Sonora and invite immigration from all parts of the world.⁶ He even entertained for a time a proposition to join forces in taking Sonora

¹ Lachapelle, 133, 134.

² Dillon in his letter, among other things, wrote: "Si votre intention est de recommencer, comme je n'en doute pas, revenez ici au plus vite; nous verrons ensemble à remonter cette affaire."—Lachapelle, 134.

³ "Je ne puis plus vivre sans la Sonore."—Lachapelle, 137.

⁴ "Retourner en Sonore, c'est l'unique pensée de ma vie."—Lachapelle, 138.

⁵ Lachapelle, 86.

⁶ Lachapelle, 139.

with certain Americans and had an interview on the subject with Henry P. Watkins; but no agreement was arrived at; and he afterwards said that he refused to join for the reason that if he did so he would lose his prestige in the eyes of the Sonorans, who detested their neighbors on the north. About this time Levasseur, who as French minister at Mexico was as much transgressing his ministerial duties as Dillon was his consular duties at San Francisco, wrote that the government of Mexico had passed from the hands of Arista into those of Santa Anna, and that the prospects for a new and more favorable contract for a lodgment of the French in Sonora were very promising. Upon this, although some of Raousset's friends counseled against it on the ground that Santa Anna could certainly be no improvement on Arista, Dillon urged him to go to Mexico again; and, acting under his advice and armed with a safe-conduct procured and transmitted by Levasseur, Raousset a second time went to the Mexican capital, arriving there in June, 1853.¹

Santa Anna was exceedingly smooth. He promised to repair the injustice done by Arista and, in proof of his protestations, signed a contract by the terms of which Raousset was to introduce five hundred Frenchmen for the protection of the Sonoran frontier against the Indians; and for the purpose of defraying expenses, at least in part, the Mexican government was to advance a sum of two hundred and fifty thousand francs and pay ninety thousand francs per month. But almost immediately after the contract was entered into, it was annulled by Santa Anna. That astute individual probably began to understand the situation of affairs. Nevertheless he appears to have still been willing to employ Raousset and proposed that he should become a Mexican citizen and take service in the Mexican army. But this by no means comported with Raousset's project and ulterior intentions; and he rejected the proposition. A scene of violent altercation was the result. He soon found that he was about to be arrested by Santa Anna, notwithstanding his safe-conduct, and, throwing himself upon a horse, he galloped for Acapulco. He had been at the Mexican capital three months; and this was the outcome. By very hard traveling, chiefly at night, and rid-

¹ Lachapelle, 134-143.

ing a number of horses to death, he managed to elude pursuit; reached Acapulco, and from there took passage for California, with the conviction in his heart and the asseveration on his tongue that Santa Anna, who meanwhile had declared him an outlaw, was a liar, a tyrant and a cut-throat.¹

Upon arriving at San Francisco in September, 1853, he found that a party of Americans under the lead of William Walker, being in substance the same party which had offered to join and make common cause with him against Sonora the previous spring, was about going off on a filibustering expedition against Lower California. He appears not to have been aware that their objective point, as well as his own, was Sonora. While he imagined that he himself had a sort of mortgage on Sonora and that the Sonorans would aid him in achieving their independence and putting their state in correspondence with European politics, in which as he thought France, Spain and England were all deeply interested, he seems to have never thought of the American filibusters as rivals or in any way opponents of his projects on Sonora. On the contrary he was disposed to wish the Americans well and, apparently imagining that the United States authorities had secretly as much to do with Walker's schemes as the French government had to do with his own, praised the enterprise manifested and the likelihood of success as against the blindness, the ignorance, the fanaticism, the silliness, the hatred of the stranger, the inveterate vices and radical weakness of Mexico.² In this persuasion, believing his prospects in Sonora as bright as ever and in fact looking forward to a French empire in America, which would eventually engulf even Mexico itself, he again appealed to the French capitalists of San Francisco for aid and assistance towards a second expedition; and he had about succeeded—having, as was said, obtained subscriptions to the amount of three hundred thousand dollars—when his hopes were dashed to the ground by a report, published in the news-

¹ Lachapelle, 143-149, 171.

² "Aveuglement, ignorance, fanatisme, niaiserie, haine de l'étranger, vices invétérés, impuissance radicale, voilà le Mexique, mon ami. Au moment même où je vous écris, cinquante Américains tentent de s'emparer de la Basse-Californie et vont réussir peut-être: voilà les Etats-Unis."—Lachapelle, 153.

papers, that Santa Anna had sold Sonora to the United States. This report, though Raousset did not believe it and though it was not credited by a great many other persons, was sufficient to alarm the capitalists; and under the circumstances they refused to advance a farthing.¹

The report of a purchase by the United States was not altogether incorrect. On December 30, 1853, under the administration of President Pierce, a treaty was entered into by James Gadsden, United States minister to Mexico, with the Mexican government for the purchase from the latter of a strip of land on the southerly side of the boundary established by the treaty of Guadalupe Hidalgo extending from the gulf of California to the Rio Grande and embracing an area of about forty-five thousand five hundred and thirty-five square miles or twenty-nine million one hundred and forty-two thousand four hundred acres. For this the price to be paid was ten millions of dollars; seven millions upon the exchange of ratifications and the remainder when the new southern boundary should be surveyed and established. Ratifications were exchanged and the treaty duly proclaimed on June 30, 1854, whereupon the first installment of the price was paid; the southern boundary was established and the balance of price paid in 1856; and thereupon the so-called Gadsden purchase, constituting the south portions of Arizona and New Mexico, became an integral part of the United States.²

Meanwhile Walker with forty-one companions had, on October 15, 1853—as will appear more at large further on—sailed for the coast of Mexico; on November 3 seized La Paz and proclaimed the republic of Lower California, and on November 7

¹ As Raousset, in the bitterness of his disgust, expressed it: "Les marchands de chandelles et de mélasse, les épiciers obtus, les banquiers rapaces, les imbéciles qui sont tout parce qu'ils ont de la monnaie, ces lâches voleurs, que Dieu confonde!"—Lachapelle, 154.

And again: "Cette synagogue d'usuriers, qu'on appelle San Francisco, . . . et tout ce monde ignoble, Americains et Français, ne consacreraient pas une obole à la fécondation d'une idée qui peut donner l'aisance à des milliers d'hommes—ouvrir à l'humanité une voie nouvelle."—Lachapelle, 155.

² The Public Domain, &c., Washington, 1880, 136–138.

abolished duties on either exports or imports and adopted the codes of Louisiana as the law of the land—and the institution of slavery as a part of it. A few days afterwards, apparently alarmed at having advanced so far, he sailed back as far as Ensenada, where he made his headquarters; and from there on January 18, 1854, he issued a number of new proclamations, among which were several declaring the "Republic of Sonora" and putting it on an equal footing as to laws and government with that of Lower California. It was plain that the objective point of his filibustering was Sonora and that Lower California was merely a stepping-stone to the richer and more important country on the other side of the gulf of California. His progress and achievements, if they can be called by such name, were, however, anything but brilliant. Nevertheless for various political and social reasons, and particularly in view of the irrepressible conflict in reference to slavery which was impending, they made a great noise in the world. There was perhaps little or no danger at any time to Mexico in Walker's expedition. But Santa Anna became more or less frightened at what might happen and at once began to think more favorably than ever before of getting a French colony on the frontier for its protection against any enemies that might come. He accordingly wrote to Luis del Valle, Mexican consul at San Francisco, to recruit all the French in California, not exceeding three thousand, who were willing to take service in Mexico, and immediately to send them to Guaymas. The term for which they were to be engaged was one year, at the end of which time they were to receive a certain amount of land. As for the nature of the service to be performed, though understood to be mainly military, it was not well defined. Del Valle at once applied to Dillon to obtain enlistments; Dillon applied to Raousset, and Raousset, as the proposition enabled him to get his adherents carried to Sonora and introduced into the country as armed soldiers at the expense of the Mexican government and without the necessity of spending a dollar of the miserable "shop-keepers" who had refused him money, jumped at the opportunity and sent all his followers to enlist. They were immediately accepted by Del Valle, making up his enrollment to the number of about eight hundred

men; and the British ship *Challenge* was chartered to carry them to Guaymas.¹

The position of affairs at this juncture was very curious. Walker was endeavoring to forestall the French in seizing Sonora and seizing it for himself and slavery. Santa Anna was endeavoring to head off Walker by pitting against him the French adventurers, who seemed to be satisfied with moderate pay and the prospect of Apache lands. Del Valle was simply an instrument, who obeyed Santa Anna's instructions as he understood them. Dillon was a schemer, who kept his eye steadily on a French lodgment in Sonora and whose importance would have been monstrously increased, if he could have been the engineer of such a consummation. And Raousset was a player, who had been badly beaten but in whose favor all the points in the game seemed to be now turning. There was, however, another element that had something to say and had to be considered. This was that portion of the pro-slavery party of California, including most of the federal officials of San Francisco, that sympathized with Walker or was at least determined as far as possible to prevent the establishment of any French colony on the Mexican frontier that might interfere with their own ulterior views. It was chiefly at the instance of these men that on March 29, 1854, the ship *Challenge* was seized for alleged violation of the revenue laws. Though the charge thus made could not be sustained, it had the effect of detaining the vessel and reducing the number of soldiers for Sonora to about three hundred. There was in fact no good cause for the charge; on April 1 it was dismissed; and on Sunday, April 2, the vessel with three hundred Frenchmen departed for Guaymas.²

Raoussett's plans were perfectly well known. When they were not exposed by himself they were exposed by indiscreet confidants. Many of the men shipped on the *Challenge* were enlisted among the dissatisfied French miners of Tuolumne county; and they enlisted only on the promise that Raousset

¹ Lachapelle, 163, 164; Annals of San Francisco, 531; Hittell's San Francisco, 192, 193.

² Veritable Compte-Rendue, &c., in L'Echo du Pacifique of November 5, 1854.

was to lead them. He did not take passage on the *Challenge*, doubtless because he wanted more men and had to remain in California to procure them; but he sent instructions with his adherents that sailed; and it was distinctly understood that he was to follow as soon as possible and start on the gigantic and triumphant career which in splendor was to throw into the shade the exploits of Cortés and in success those of William the Conqueror. But his expectations of obtaining more men proved vain. The same influences that had detained the *Challenge* prevented further enlistments by the arrest on March 31 of Del Valle for alleged violation of the second section of the neutrality law of April 20, 1818, which forbade the enlistment within the United States of soldiers to serve under a foreign power. By the same influences the case of Del Valle was rushed forward to trial and great zeal manifested by the federal authorities to secure a conviction. While the trial was progressing the United States district attorney found it advisable to procure the testimony of Dillon, the French consul; but according to a consular convention recently entered into between the United States and France a consul could not be compelled to appear in a court of justice to give testimony, but could only be invited to do so. Several invitations were accordingly transmitted to Dillon; but that individual, for very good reasons doubtless, declined to appear; and it was held on application for a subpoena that his attendance as a witness for the prosecution could not be compelled.¹

Though there can be little doubt that Del Valle could have successfully defended himself against the charge as made against him, if he had gone about it in the right way, the refusal of Dillon to appear as a witness and the refusal of the court to compel his attendance seemed to afford him a new method of fighting the prosecution. On the supposition that Dillon would still refuse to appear and that the court would still refuse to compel him to do so, Del Valle averred that Dillon's testimony was material and necessary for his own defense and asked for compulsory process to bring him into court. He appears to have supposed, upon making this move, that the United States would dismiss the case or, if the trial proceeded, that the jury would acquit him on the

¹ *L'Echo du Pacifique* of November 8, 1854; *Annals of San Francisco*, 532.

ground that he had been deprived of Dillon's testimony. He was, however, mistaken in Ogden Hoffman, the judge of the federal court. Notwithstanding Hoffman's former refusal to bring Dillon forcibly into court, he now issued compulsory process, upon which Dillon was arrested by the United States marshal. This violent, not to say ignominious, seizure of his person rendered the French consul furious. He chose to consider himself and the nation he represented as grossly insulted; he presented long protests; hauled down his flag; closed his office and fell back upon his official dignity. There was for a time great excitement, particularly among the French residents, and some persons were even apprehensive of international trouble. It almost seemed as if the Del Valle business would be entirely overshadowed and lost sight of in the terrible noise raised by the Dillon business. Matters, however, soon began to fall back into their normal state. On further consideration Judge Hoffman saw proper to again change his ruling and held that, under the consular convention with France, Dillon could not be compelled to appear—that he was to be considered in law as being in France, and that Del Valle, in being deprived of his testimony, suffered no more wrong than in being deprived of the testimony of any other person, who was without the jurisdiction of the United States. Del Valle's trial accordingly proceeded; and on April 28 he was found guilty as charged, though the jury recommended him "to the kind consideration and mercy of the court."¹

Dillon's aggravating conduct in the matter of his arrest as a witness and the fact that the testimony in the Del Valle case showed very plainly his complicity in all the Mexican consul had done induced the authorities, who had prosecuted Del Valle, to proceed next against Dillon for substantially the same offense. He was indicted, arrested and put upon his trial in the same court for aiding and abetting Del Valle in violating the neutrality laws. The fiction of being in France would not answer his purpose on this occasion. He was obliged to respond and set up in defense that the expedition to Sonora, for which men had been recruited, was not a filibustering one but on the contrary was gotten up by the Mexican government itself for the purpose of

¹Annals of San Francisco, 532-534.

preventing filibustering and particularly of forestalling the schemes of Count Raousset-Boulbon. To this the prosecution responded that under any circumstances the recruiting in California was a violation of law; and that so far as the French consul was concerned, instead of aiding Del Valle, he was merely using him as a tool and that, instead of endeavoring to thwart Raousset, he was, for the benefit of the French government and his own aggrandizement, secretly working in concert with him. The trial resulted on May 25 in a disagreement of the jury, which after six hours' deliberation stood ten for conviction and two for acquittal. By this time, however, Walker's expedition had ignominiously failed; and, while on the one side the scare in Mexico was over, there was on the other no longer any special reason for further pursuing Del Valle and Dillon. Under the circumstances on May 29, four days after the jury disagreed and were discharged, the United States district attorney dismissed the case against Dillon by entering a nolle prosequi and in the case of Del Valle, who had not yet been sentenced, asked for a suspension of proceedings which in effect amounted to a dismissal.¹

Raousset, despairing for the time of getting any considerable number more of reinforcements in California, was either too impatient for his departure or was under too many obligations to those who had gone in the Challenge to wait until after the Dillon trial. On the other hand it is not unlikely that his testimony would have hurt Dillon more than helped him; and very probably Dillon, more than anybody else, was anxious for his departure and instrumental in getting him off. At any rate Raousset secretly and surreptitiously left San Francisco on the night of May 23, 1854, the day on which Dillon's trial began, on board a little schooner of only twelve tons burden, called *La Belle*, which carried eight men, two hundred and fifty carbines and some powder. His idea was to put himself at the head of the Challenge party; make himself master of Guaymas; fortify himself in that city, and wait for reinforcements. He thought, if he could get a fair start, he could erect such a barrier in Sonora as to entirely head off the United States, which menaced Cuba, Canada and Mexico and threatened in twenty years to become

¹ Annals of San Francisco, 534, 535.

masters of the world.' He was convinced that the establishment of his Frenchmen in Sonora would only be the first step of France on the way to the occupation of all the magnificent country of Mexico.¹ He knew that he had been declared an outlaw and that his enterprise was hazardous; but he believed that he had ten chances in his favor to one against him. Nevertheless his voyage was ill-starred from the start. After putting to sea at San Francisco, he found that his captain or pilot was incapable and he was obliged to put back to Saucelito to procure a change. He, however, managed to get off again without being overhauled or discovered. At the island of Santa Margarita on the coast of Lower California he was wrecked; and for ten days, before he could get afloat again, he was compelled to live on shell-fish. Finally about the end of June he reached the neighborhood of Guaymas and landed a few miles distant from the city.²

One of the first things he did upon landing was to send a despatch by two messengers to Monsieur L. Desmarais, the commandant of the French in Guaymas, requesting him to immediately that night march upon the Mexican head-quarters, seize the military and civil authorities and make himself master of the city. It was very easy but apparently very ridiculous to give such an order or expect it to be obeyed. But however this may have been, it never reached Desmarais. On the contrary the messengers were recognized and arrested and the news of Raousset's arrival, spreading rapidly through Guaymas, caused great excitement, and especially among the authorities, who forthwith began collecting forces and taking measures to oppose him. Such was the result of Raousset's first step in his new movement

¹ His language, on April 29, 1854, was: "Ce peuple, que, dans un espace de cinquante ans, est devenu ce qu'il est; qui menace Cuba, le Canada et le Mexique; ce commerce sans rival dans sa hasardeuse énergie, dont les navires font le tour du monde et frappent aux portes du Japon; ce peuple et ce commerce, je vous le dis, seront les maîtres du monde avant vingt ans! Il faut donc une barrière."—Lachapelle, 168, 169.

² He said, on April 29, 1854: "J'ai la conviction que mon œuvre à moi, l'établissement des Français en Sonore, ne sera que le premier pas de la France vers l'occupation de ce magnifique pays."—Lachapelle, 169.

³ Lachapelle, 168-177.

upon Mexican soil. His second step was little or no more prudent or promising. This was, in the face of all the excitement he had caused and the uncertainty as to how he would be received, to enter the city and take the risks of what actually happened. The Frenchmen of the Challenge, as a body, were a very disorderly and very unreliable set. Raousset, seeing that he could not with any confidence depend upon them, conceived the idea of inducing General José M. Yafiez, the comandante of the Mexican forces at Guaymas, to throw off his allegiance to Santa Anna and join him in raising the standard of revolution in favor of Alvarez, who was about to "pronounce." He in fact had a conference of two hours' duration on the subject with Yafiez; but the latter was entirely too wise to be misled. On the contrary, while openly entertaining the propositions of Raousset, he was secretly preparing for a conflict, which he seems to have recognized as inevitable.¹

Raousset's relations with the authorities of Guaymas became more and more strained. While Yafiez was too prudent to initiate an attempt upon the French, he had been daily growing stronger and was at length fully ready to receive one from them. He appears to have desired to avoid bloodshed; but causes of quarrel and threatened ruptures continually arose. On the other hand Raousset was surrounded by friends who seemed bent on precipitating a fight. On August 11, they advised him to take up arms. One of them tauntingly asked whether he forgot Hermosillo or whether he was not the same man that he had been there. Goaded on every side and becoming conscious that he was in a net, the meshes of which were being drawn tighter and tighter, Raousset called such of the French as adhered to him together and proposed that an explanation and guarantees for their safety should be demanded of Yafiez. A delegation was accordingly sent; but Yafiez answered that the armed manifestations on his part were simply those of precaution and that he did not propose to take the initiative in any aggressive movement. He, however, would take occasion to say that Raousset, as the chief cause of trouble, should leave the country. On the other hand Raousset, apparently driven wild by his environment and

¹ Lachapelle, 177-183.

far from thinking of leaving the country or abandoning his enterprise, on the morning of August 13, 1854, peremptorily demanded of Yafiez that he should disarm his soldiers and deliver to the French two pieces of ordnance for their protection and the persons of three of the principal merchants of Guaymas as hostages. To this proposition Yafiez replied that it was asking his dishonor; and he indignantly rejected it.¹

Upon the receipt of Yafiez's reply, Desmarais, at the order of Raousset, drew up all of the French battalion that adhered together into a square and Raousset vehemently addressed them. He said that the time for compromises and negotiations was past and that they must either yield or fight. It remained with them to choose whether they would become Mexican soldiers and tamely submit, like Mexican soldiers, to the bastinado or would they fight for the liberty of Sonora and the honor of the French name? He had already announced that if Yafiez refused his demands, it meant war; "and in that case," he continued, "we will wage war and we will have the victory of Guaymas as a pendant to the victory of Hermosillo."² At these words, so well calculated to rouse their enthusiasm, the French answered with a cry of "Vive la France" and asked to be led at once against the enemy. As they started to march, Raousset was asked to take formal command; but he replied that he would only accept the place of a private volunteer with the ambition of being always the first to advance.³

The city of Guaymas contained about three thousand inhabitants. It consisted of four principal streets running north and south back of the bay, intersected at right angles by streets running east and west. The houses were in general all one-story structures, with flat roofs and parapets two or three feet high. Behind the city were heights and beyond, volcanic peaks. There were collected and posted in it, on the part of the Mexi-

¹ Lachapelle, 183-190; Veritable Compte-Rendu in L'Echo du Pacifique of November 10, 1854.

² His language was, "Eh bien ! en ce cas, nous ferons la guerre. Nous aurons la victoire de Guaymas pour pendant à la victoire d'Hermosillo!"—Lachapelle, 190.

³ Lachapelle, 190, 191.

cans, about twelve hundred soldiers. The French battalion was supposed to consist of four companies of seventy-five men each; but their numbers were not much more than half full. One company, the fourth, was posted at the Hotel de Sonora near the principal bay-landing; the other three, under the lead of Desmarais and accompanied by Raousset, marched upon the Mexican head-quarters in the northern part of the city. As they approached, the Mexicans opened a plunging fire. This appears to have completely dazed Desmarais and demoralized his men. Raousset immediately threw himself in front and attempted to rally the disorganized companies. But in vain. He found himself deserted by all but about twenty comrades, with whom, however, he maintained the unequal and desperate conflict against the Mexican artillery. Pressing forward he killed cannoneer after cannoneer, so that Yáñez himself was obliged to serve one of the pieces. Meanwhile Raousset with his handful still pressed forward and called upon the others to follow in a final assault; but only two or three responded, and he was driven back. His hat was riddled with balls and his red-woolen shirt pierced by two thrusts of bayonets; but still he received no wound; for the death he sought in his despair would not come to him.¹

Raousset, finding himself repulsed and almost alone, quitted his perilous position to rejoin the remnants of the battalion. But all was disorder and confusion. There had from the start been no studied plan of attack agreed on; no place of retreat thought of; no point or center of rally indicated. But as he slowly retreated from street to street, hatless and with eyes wet with tears of bitterness but flashing with fiery rage, he by degrees attracted around him some fifty or sixty men. When not far from the Hotel de Sonora, a discharge of muskets in that direction was heard and Raousset exclaimed, "Come, friends, one more effort! Who will follow?" But some answered that they had no more cartridges, and others that they should all go to the French consulate. For that place, on the last suggestion,

¹ Lachapelle, 192-195; Veritable Compte-Rendu in *L'Echo du Pacifique* of November 10, 1854.

they all started; and Raousset himself, breaking his sword, silently followed the throng.¹

One Joseph Calvo occupied the position of vice-consul of France at Guaymas. He was very closely mixed up in the troubles that had taken place and there were not a few, among whom was Raousset himself, who considered him as leagued with the authorities against the French and especially against Raousset. Calvo had raised a white flag over the consulate and, on being applied to, promised to protect all who surrendered. Some one asked if he would guarantee the life of Raousset also; and immediately a great number of the soldiers demanded as a condition of surrender such a guarantee. Calvo hesitated for a while; but, upon being told that without a stipulation to that effect the fight would recommence, he distinctly promised that Raousset's life should be spared.² Meanwhile all the French, including all the fourth company except such as had been shot down and, so to speak, massacred at the Hotel de Sonora, had assembled at the consulate, and it was found that there were about one hundred and fifty of them. In the battle or rather rout that had just taken place, lasting about three hours, thirty-three Frenchmen had been killed and about sixty wounded. Of the eighteen hundred Mexicans engaged thirty had been killed and one hundred and twenty wounded. The crew of the little schooner Belle, upon learning the result of the day, hastily set sail and ran up the gulf of California, where the vessel and all on board were lost.³

After the close of the day the Mexican authorities arrested all the French, even those who had taken no part in the fight, and threw them into prison. The next morning they were led out to the cemetery and compelled to dig trenches. It was supposed by some that they were digging their own graves; but they soon

¹ Lachapelle, 195, 196.

² "M. Calvo sembla hésiter, mais, sur l'observation de quelques voisins que le combat allait recommencer, cet hypocrite étendit la main et d'une voix très-nette, très-claire, il dit: 'M. de Raousset, aussi, aura la vie sauve!'" —Lachapelle, 196.

³ Lachapelle, 196, 197; Veritable Compte-Rendu in *L'Echo du Pacifique* of November 10, 1854.

found that their work was only intended for the bodies of those who had fallen the day before. As for Raousset himself, it was said that an opportunity was given him to escape, but that he refused, saying that he had nothing to fear as he was under the protection of the French flag. However this may have been, he was on August 10 taken before a council of war and put upon his trial on charges of conspiracy and rebellion. Among other witnesses examined twelve of the French battalion were called; and every one of them, except a gentleman named Bazajou, endeavored to exculpate himself at the expense of Raousset. The miserable Calvo was also called as a witness; and, as might have been anticipated, denied having ever made any promise that Raousset's life should be spared. It is probable, however, that nothing would have saved Raousset; his fate doubtless was previously determined on; and he was condemned to death on the charges preferred by a unanimous vote of his Mexican military judges. He was immediately placed "en capilla," as it was called—in other words, in a ghastly chamber, lighted with numerous tapers and having in it, besides the bed of the condemned, an altar and a coffin, and memento-mori inscriptions on the walls. There, with these lugubrious surroundings, he wrote his last letters to relatives and friends, maintaining to the last his courage. He was visited by several persons, principal among whom were Father Vicente Oviedo, who gave him spiritual consolation, and Calvo, the before-mentioned vice-consul of France. The position that this Calvo assumed and occupied in reference to Raousset was a something probably unparalleled in the world. If there is any faith to be placed in almost universal testimony, he was one of the most unmitigated liars and blackest of traitors. Raousset had properly appreciated and designated him as such. But in these last interviews he seems to have suggested to Raousset that, as his farewell letters would have to pass through his hands and might not reach their destination, would it not be well to retract what he had so bitterly said about Monsieur Calvo? Raousset evidently seems to have thought so; but the repeated and uncalled-for commendations of Calvo contained in Raousset's last letters, and which were probably dictated by Calvo himself, instead of counting in his favor, are rather proofs of a more

despicable character than could otherwise well have been conceived.¹

Richard Roman, the United States consul at Guaymas, besides interposing in favor of the French prisoners in general, made a special effort on behalf of Raousset and endeavored to induce Calvo to join him in applying for a pardon. Calvo, however, declined on the plea that justice should take its course. Meanwhile Raousset, fully recognizing and appreciating that his doom was fixed, prepared for death. Learning that every one, condemned as he had been to be shot, had to die on his knees and blindfolded, he begged as a favor from Yafiez that he might be executed standing and with his eyes unbandaged, which request was accorded to him. He then turned to Oviedo, his confessor, and discoursed on the immortality of the soul; and he appears to have done so with so much eloquence and feeling that, after a conference of three hours, the poor priest left in tears, declaring that Raousset was a saint.² It was said that his pistols were purposely left with him in the hope that he would not have to be executed; but, as might have been expected, he refused to commit suicide. On Saturday, August 12, 1854, at six o'clock in the morning, he was taken out, accompanied by the priest and an escort of soldiers, to a spot on the beach between the fort and the bay. The military under Yafiez was disposed around the place and crowds of people covered the slopes of the fort and the roofs of neighboring houses. Raousset marched with firm step and uncovered head. Arrived at the spot, he turned his back to the bay and fronted a squad of six soldiers drawn up in line seven or eight paces distant. The sentence condemning him to death was read and then, placing his hat upon the ground and folding his hands behind his back, he exclaimed, "Come, my braves, do your duty and aim at the heart." At this all were more or less affected and not least the executioners. They hesitated and blundered when the order to fire was given. The shots that took effect did not immediately kill, when General Yafiez, rushing forward, ordered the work finished; and Raousset fell

¹ Lachapelle, 198-207.

² "Le pauvre prêtre . . . sortit, les larmes aux yeux, en disent: 'Cet homme est un saint!'"—Lachapelle, 209.

upon the sand, almost riddled with balls. Some of the last shots were so close that his clothing took fire, and water had to be poured on to extinguish it.¹

The body was raised, placed in its coffin and buried in a grave outside the cemetery; but next day Oviedo had it removed to consecrated ground and gave it Christian interment. Some days afterwards the French prisoners, remnants of the companies led by Raousset, were marched off to San Blas, where nine on August 25 sailed for Callao and sixty-three on August 27 for San Francisco. Of the remainder some stayed and others departed later. And thus for the time, and until Louis Napoleon's unfortunate protégé, Maximilian, was called upon to play his sorry part ten years later ended French filibustering schemes against Mexico.

¹Lachapelle, 207-211; Veritable Compte-Rendu in *L'Echo du Pacifique* of November 10, 1854.

CHAPTER VI.

CALIFORNIAN FILIBUSTERS (CONTINUED).

BUT the chief of all the filibustering crew that was evolved out of the peculiar condition of affairs in the early fifties of California, and the only one of them that even for a time met with anything that could be called success, was William Walker. This remarkable individual was a native of Nashville, Tennessee, born in 1824, and was of a singularly restless and unsettled disposition. He managed to obtain a fair elementary education, with some smattering of the classics, and commenced the study of law; but, soon tiring of Blackstone and Chitty, he devoted a few months to medicine and even went so far as to open an office and pretend to practice. Meanwhile he had gone from Nashville, first to New Orleans and then to Philadelphia. Thence he managed to get to Paris, France, where he learned something of political turmoil and revolution. After an absence of a year or two he returned to New Orleans and became a journalist, entering with all his might and naturally on the southern side into the irrepressible controversy and conflict, then pending between the north and the south, which eventually found its solution in the civil war. For a man of Walker's propensity to roam, New Orleans was too narrow to keep him long; and in 1850 he joined the rush of adventurers to California; settled in San Francisco, and connected himself with the *Herald* newspaper.¹

Walker was naturally combative and aggressive. If the civil war had come on sooner, he might perhaps have found a fitter field for his activities; but, as it was, he was obliged, until he could no longer be held in such confined limits and plunged into

¹ *Walker's Expedition to Nicaragua, &c.,* by William V. Wells, New York, 1856, 21, 22, 202.

war on his own account, to be contented with waging merely wordy wars and conducting merely journalistic campaigns. One of his favorite topics of comment in the *Herald*, in the early part of 1851, in which he was very personal and very bitter, was the inadequacy of the courts to meet the fearful increase of crime in California. His strictures roused the ire of Levi Parsons, then occupying the bench of the fourth district court in San Francisco, who in a charge to the grand jury went so far as to pronounce the press a nuisance and recommend a presentment to that effect. The only effect of this was to provoke Walker to a new attack, in which he handled Parsons without gloves; whereupon Parsons, who however deficient in prudence was not wanting in nerve, cited Walker before him for contempt of court; summarily convicted him; fined him five hundred dollars, and ordered him imprisoned until the fine was paid. Walker, refusing to recognize the jurisdiction of the judge in such a proceeding, declined to pay the fine and went to jail. The result was great popular excitement; and, Parsons being at best an unpopular man, Walker was looked upon as a representative of the freedom of the press and became the hero of the hour. The people, almost as a unit, took up his cause. An indignation meeting, consisting of almost all the population, approved his conduct; resolved that the fourth district court could not be rendered any more contemptible than it was, and requested Judge Parsons to resign his office as utterly unfit to hold a judicial position. The crowd then in an immense body paid a visit of sympathy to Walker at his prison. At the same time, and as soon as the necessary papers could be drawn up, a writ of habeas corpus was sued out of the superior court, upon which the prisoner was immediately discharged on the ground that, however great an offense may have been committed against the dignity of Judge Parsons, it did not constitute a technical contempt of court for which he could be thus summarily punished.¹

For an ordinary man, this would have been triumph enough. But Walker was not satisfied. Imagining from what had taken place that the prominence he had thus attained might lead to further developments and afford him a still more complete

¹ *Annals of San Francisco*, 322-324.

triumph, he threw aside his newspaper occupation and appeared before the legislature of 1852 in an attempt to have Parsons impeached. He succeeded in procuring a report from the assembly that Parsons had been guilty of gross tyranny and oppression and ought to be impeached; but a larger committee, specially selected to inquire into the subject, reported that the charges against the judge and testimony given in support of them did not show sufficient ground for impeachment; and there the affair, as a public matter, ended. But Walker's efforts in the forensic line on this occasion suggested to him that he had made a mistake in abandoning the profession of the law; and his next move was to go into that business and open a law office at Marysville, where he practiced for a number of months. But successful lawyers were not then, any more than they are now, made of rolling stones. Neither by disposition nor by previous training was he fitted to become a lawyer. Meanwhile, however, another career, such as it was, was opening for him. The struggle between freedom and slavery, between the north and the south, was rapidly becoming more and more bitter. After the admission of California into the Union, the free states had the numerical majority and, except for that class of politicians known as northern men with southern principles, would have governed at Washington. But, as it proved, the contest was only intensified; and what was felt so strongly at the center of the nation was felt with more or less force at the periphery. The minds of men were agitated everywhere; and, as the conflict deepened, those southerners, who believed that the salvation of slavery as an institution depended upon extending its area into Spanish America, began to turn their attention towards Mexico and especially towards Sonora as its weakest and most accessible part.

The expeditions of Pindray and Raousset-Boulbon caused great disturbance to these slavery-extensionists. If the French should succeed in planting a new Algeria in northern Mexico, it would plainly be a serious if not insurmountable obstacle to their schemes. This they felt from the start; and Walker, as one of those who though not as yet recognized as a leader was animated with an overpowering ambition to become one, deter-

mined in the summer of 1852, soon after Raousset had sailed from San Francisco on his first expedition, to visit Guaymas and see for himself what, if anything, there was to fear from the French, and what, if anything, ought to be done in reference to them. He found that the French were not as successful as they had anticipated for the reason that the local officials were not favorable to their project and that the central government had altered its views since it had given its consent and promised to aid the enterprise. But it was plain, from what they accomplished in spite of these obstacles, that a comparatively small number of bold and determined men might possess themselves of the country and, if supported by any respectable element of public opinion and recruited from time to time as occasion might require even by small numbers of men of their own stamp, might defy the power of Mexico. It was also plain that if he and his pro-slavery friends were ever to do anything towards seizing Sonora, it was time for him and them to act. Fully impressed with these ideas, he returned to California and set about collecting followers and funds. It was a questionable and hazardous enterprise; and there were not many men, even among the adventurous spirits out of employment in California, that were willing to engage in it. But there were a few; and Walker convinced himself that, if he could make a brilliant dash at the beginning and attract admiration for his abilities as a military leader, he would soon have followers enough. He was well aware—though he sedulously avoided mentioning the subject openly—that any success he might meet with would be welcome to the pro-slavery party in the United States and, in case of such great success as to make his enterprise respectable, that he could rely upon the support of the south almost as a body.¹

According to Walker's own account, he and other persons, chiefly residents of Auburn in Placer county, California, early in 1852 had formed a design of establishing a military colony on the frontier of Sonora with a view of protecting that state from the Apaches. They had raised a fund and sent two agents to Guaymas with instructions to procure a grant of lands near Arispe on condition of protecting the frontier from the Indians.

¹ Hittell's History of San Francisco, 187-191.

These agents, one of whom was Frederic Emory, arrived in Sonora just after Raousset-Boulbon had entered into his agreement to form a French colony; and the Sonoran government expected the French to do what the Americans proposed. For this reason Emory and his companion failed in procuring a grant; and, as Raousset soon afterwards sailed for Sonora, the Auburn project was abandoned. But when news of the controversies in which Raousset became involved in Sonora reached California, Emory proposed to Walker to revive the Auburn enterprise; and in June, 1853, in accordance with arrangements made with Emory and other friends, Walker, accompanied by Henry P. Watkins, again sailed for Guaymas. His avowed object was to procure such a grant as he had sought before; and to secure a favorable reception he provided himself with a passport from the Mexican consul at San Francisco. But the authorities at Guaymas suspected his designs; subjected him to a long examination, and refused to allow him to proceed to the interior. He was thus again obliged to return bootless to San Francisco. But before he left Guaymas—according to his own statement—he saw and heard enough to satisfy himself that a comparatively small body of Americans might gain a position on the Sonora frontier and protect the families on the border from the Indians, “and such an act,” to use his own words, “would be one of humanity no less than of justice, whether sanctioned or not by the Mexican government.”¹

In searching for the real purposes of Walker’s attack upon Sonora, it is hardly worth while seriously to consider such a pretense as that of protecting the frontiers against the Apaches. It may have been very well as a matter of strategy to avow some such object; but it deceived nobody at the time and has deceived nobody since. It is plain that in making such a pretense Walker did not state the truth. His actions, which were much more reliable as indications of his purposes than his words, spoke a very different language. Everybody that knew anything about what he really proposed knew that his design was to take Sonora and as much more of Mexico as he could—and not as an act of

¹The War in Nicaragua, by Genl. William Walker, Mobile and New York, 1860, 19-21

humanity or justice, but for himself in the first place and for slavery, as a support to himself, in the second place. There was little or no secret made of this purpose in California. Meetings in furtherance of it, which might almost be called public meetings, were held in San Francisco and were attended and encouraged by men of influence and standing in the community. Money was subscribed freely; and bonds of a so-called republic of Sonora and Lower California, in anticipation of what was to be accomplished, were printed and sold on the streets. A new flag, under which Walker was to lead those who were willing to accompany him to victory, was prepared and displayed; arms and munitions of war were purchased; men were enlisted, and a vessel, the brig Arrow, chartered to carry the first adventurers to the field of glory. It made no difference that the project and every act done for the purpose of carrying it out was in direct violation of the laws of the United States. In comparison with the object to be attained, there was hardly an officer in California that cared anything about the laws of the United States. There was scarcely a single one of the federal officials from collector down to janitor who, if not himself a pro-slavery man, had not been put in his place by pro-slavery votes; and none of them, so long as they could avoid it, were going to interfere with what was known and recognized as a pro-slavery measure. The only man who attempted to do so was General Ethan Allen Hitchcock of the army, then in command of the United States forces on the Pacific, who determined in so far as lay in his power to uphold the laws and accordingly on September 30, 1853, as the Arrow was about to sail on its unlawful expedition, ordered its seizure.¹

Though Hitchcock acted under a plain sense of duty and was clearly right in what he did, he gave great offense to the federal officials and the pro-slavery party in general; and the result was an attempt to remove and degrade him. So far as removal was concerned, the purpose was accomplished a few months afterwards through the management of Jefferson Davis, then United States secretary of war; but as to degradation, hardly. If Hitchcock had done nothing else than on this single occasion to have stood up for the right in the face of the odds in the wrong

¹ Annals of San Francisco, 477.

that he knew were against him, that fact alone was enough to show him a man fit for his place; and such a man, whether kept in his place or kept out of it, can not, in any such sense of the term as was intended, have been degraded. But Hitchcock found himself alone in his efforts to uphold the neutrality laws as against the Walker party and could do nothing effective. When their case came up for trial, the United States district attorney informed the court that there was not a scintilla of evidence to justify their detention; and they were at once discharged. In the meanwhile, on account of the seizure and detention of the brig Arrow, the bark Caroline had been engaged and the arms and stores transferred to it; and on October 15, 1853, Walker and those of his party, who had been found willing to enlist in his enterprise for fighting purposes, sailed for the lower coast. There were only forty-six of them; but they seemed to believe themselves equal to the task of initiating the proposed conquest of Sonora and that future ages would love to dwell on the spectacle of such a mere handful of heroes setting out to attack a great empire.¹

On November 3, 1853, after a voyage of nearly three weeks, having run into and a short distance up the gulf of California, instead of steering for Sonora, Walker landed at La Paz, the capital of Lower California. That place having but very few inhabitants and those being taken by surprise and entirely unprepared for such an attack, he had no difficulty in seizing it, securing the person of the governor and taking forcible possession of his house. He immediately issued a proclamation—much in style though hardly so much in effect as an ordinary Mexican pronunciamiento—that “The republic of Lower California is hereby declared free, sovereign and independent; and all allegiance to the republic of Mexico is forever renounced.” At the same time the Mexican tricolor, which had floated from the flag-staff ever since the American army had relinquished that place in 1846, was hauled down and the filibuster flag run up in its stead. The next move was to arrange a so-called government for the new republic of Lower California, which was to consist of William Walker, president; Frederic Emory, secretary of state;

¹ Annals of San Francisco, 478; Wells, 25, 26.

John M. Jernagin, secretary of war; Howard H. Snow, secretary of navy; Charles H. Gilman, captain of battalion; William P. Mann, captain of navy, and so on down, with an exceedingly liberal supply, for so small a body of men, of high-sounding titles and exalted rank. Probably these titles were given in anticipation of an almost immediate accession of recruits. But if so the expectation was vain. So small in fact were their numbers that they deemed it unsafe to remain at La Paz, where a force sufficient to crush them could at any time be sent from Mexico or even from Sonora, and doubtless would have been sent as soon as news of their attack should reach Mexican head-quarters. But before leaving Walker issued two decrees, dated November 7, 1853, the first to the effect that all duties, whether export or import, were thereby abolished and the second to the effect that from and after that date the civil code and code of practice of the state of Louisiana should be the rule of decision and the law of the land in all the courts of the republic to be thereafter organized. This adoption of the Louisiana codes was of course an adoption of slavery, which was an integral part of those codes, as an institution of the new republic; and it was deemed an exceedingly skillful manner of thus accomplishing by indirection an object, considered as indispensable, which it was not prudent too openly to acknowledge or avow.¹

The evacuation of La Paz as too dangerous a neighborhood being determined on, Walker re-embarked, taking along the governor and all the public documents he could find. When about to sail, he sent a small party on shore to procure wood; and, as this party was returning it was fired on by the natives. Thereupon Walker opened on the town with his ordnance and then landed with thirty men and for an hour and a half pursued every Mexican that showed himself, killing six or seven and wounding as many others. The Walker party did not receive a scratch except from the cacti while running after the frightened natives through the chaparral at the rear of the town. "Thus"—in the words of the report which was prepared at Walker's headquarters and afterwards dispatched to San Francisco for publication to the world—"thus ended the battle of La Paz, crowning

¹ Wells, 24, 27.

our efforts with victory, releasing Lower California from the tyrannous yoke of declining Mexico and establishing a new republic." From La Paz, after this astonishing battle and its brilliant results, Walker, in search of some safer locality, ran back to San Lucas. There a little Mexican cutter was seen cruising off the cape, and the next morning Walker, apparently none too well pleased with the prospect, again set sail on the backward track and steered for Magdalena bay on the west coast of Lower California. Even that place, far removed as it seemed to be from Mexican troops, was not deemed entirely safe; and, after a short stay, the victors of La Paz moved up to Ensenada on Todos Santos bay in the neighborhood of the ruins of the old Dominican Missions of Santo Tomas and San Vicente, some sixty miles south of San Diego and within comparatively easy reach of the United States boundary. From the camp thus fixed upon, Walker issued what he called an address to the people of the United States, charging that the Mexican government had failed to perform its duties to the province of Lower California; that it had manifested little or no interest in its affairs; that the geographical position of the province made it entirely separate and distinct in interest from the other portions of the Mexican republic, and that the moral and social ties which bound it to Mexico had been even weaker and more dissoluble than the physical. Hence, to develop the resources of Lower California and effect a proper organization therein, it was necessary to make it independent. "On such considerations," he continued, "have I and my companions in arms acted in the course we have pursued. And for the success of our enterprise, we put our trust in Him, who controls the destiny of nations and guides them in the ways of progress and improvement."¹

However ridiculous all these proceedings were, the Californian newspapers puffed them up into something wonderful and created what in these days would be called a filibuster "boom." The flag of the new republic was hoisted in San Francisco, an office opened and recruits enlisted. Volunteers, dazzled with the prospect of further victories like that of La Paz, in which great glory was to be won without any risk of life, crowded forward; and in

¹ Wells, 27; Annals of San Francisco, 478.

a very short time more offered than could be taken. On December 7, 1853, about a hundred, under command of Henry P. Watkins, took passage for Walker's camp on the bark Anita; and, there being on this occasion no officer willing, like General Hitchcock, to do his duty at the expense of his popularity and there being therefore no attempt to detain them, they sailed and in due time reached their destination. Walker, being thus reinforced, had more mouths to feed than he had provisions for. In attempting to supply himself from the herds and store-houses of the rancheros of the neighborhood, he roused their warlike spirit. They could submit to the taking of their capital city, the seizure and destruction of their archives, the overriding and trampling down of their laws and institutions; but the touching of their cattle and frijoles called them to arms; and the result was the so-called "battle of La Grulla" near Santo Tomas, where the adventurers, though they won the fight, were roughly handled and lost several of their men. The news of this affair—the first American blood shed in the proposed conquest—increased the excitement in California; and for a while at least large numbers of recruits could have been procured, had the necessary means for their transportation and supply been furnished. Even as it was, a number found their way to the field of operations.¹

As his camp filled up and he commenced to feel strong enough to make a forward move towards his objective point in Sonora, he went to work forging new decrees; and the facility with which they flowed from his pen when he got started was astonishing. On December 24, 1853, for the apparent purpose of pacifying the people of Lower California and capturing any religious feelings they might possess, he issued a proclamation to the effect that all well-disposed persons should be fully protected in the enjoyment of liberty and property; that religion should be respected, and that everybody should be encouraged in his reverence for and worship of the Great Being, without whose aid all earthly purposes fail and under whose protection all national improvements are accomplished. On January 18, 1854, he issued four decrees, each one involving or intended to involve

¹ Annals of San Francisco, 479, 480; Wells, 27, 28.

consequences of the greatest importance. By the first, which was headed republic of Sonora, he declared that all decrees of a general nature, theretofore published as decrees of the republic of Lower California, and of course including those which tacitly recognized slavery, were thereby republished as decrees of the republic of Sonora. By the second, he divided the republic of Sonora into two states, styled respectively the "State of Sonora" and the "State of Lower California." By the third, he declared that the name of the republic of Lower California was thereby changed to that of the republic of Sonora and that thenceforth all decrees, laws and processes issued should run in that name. And by the fourth, he declared that the state of Sonora, lately declared by the president of Mexico a department of the Mexican republic, was thereby constituted a part of the republic of Lower California.¹

But while Walker was thus issuing his grandiloquent decrees and assuming to deal like a conqueror with provinces he had not conquered, many of the volunteers began to see the folly of what they had done and some fifty or sixty deserted. There were indications of general demoralization; and it became necessary, as he thought, to stop the progress of disaffection by making a terrible example. For this purpose he arrested four of the deserters, tried and convicted them, publicly shot two and flogged and drummied out of camp the other two. He seems to have imagined himself following the example of Andrew Jackson when that general deemed it necessary, for the success of his Florida campaign, to execute some deserters. But there was a very great difference between the two cases. Jackson was a general in fact as well as in name and was engaged in a lawful expedition. Yet even Jackson, with all his brilliant record and almost unbounded popularity, made a great mistake in that execution. Walker's mistake was not only great but, even under otherwise favorable circumstances, would have been fatal. He was engaged in an expedition which, though not altogether unpopular, was entirely unlawful; and he depended for everything like success upon popular sympathy. But from the moment he bathed his hands in the blood of his own men,

¹Wells, 28-30.

who could not possibly be more guilty than himself, his course, except among a very few, became as unpopular as it was unlawful; and even a brilliant stroke of arms would hardly have restored it to favor. It may not have been particularly remarked at the time that the two men executed were both from Illinois, a northern state; but there arose a general feeling that the game played was a sectional one and, except for Walker's own particular friends, a very dangerous one.¹

Whether a brilliant stroke of arms would have helped Walker's cause after the mistake he had made may be doubtful; but, whether so or not, his next move was anything but brilliant. Finding it necessary to do something, notwithstanding the desertions that had taken place, he on March 20, 1854, leaving San Vicente with one hundred men and driving a hundred cattle before him, started across the upper part of the peninsula of Lower California for the Colorado river. In crossing the intervening mountains he lost several more of his men by desertions and twenty of his cattle. On nearing the Colorado, he was followed by a number of Indians, who stole thirty more of his cattle. To prevent further depredations, he seized five Indians and held them as hostages and, upon their attempting to escape, shot three. Upon reaching the Colorado, some seventy miles below Fort Yuma, where the river was about four hundred yards wide, he and his men crossed on rafts; but it was found impracticable to take over the cattle; and a number were lost in the attempt. The Indians still continued troublesome and a few more of them were killed; but the cattle kept on decreasing in numbers. In the course of a very few days the entire filibuster party, exhausted with heat and fatigue, nearly naked, and with starvation staring them in the face, was completely demoralized. On the third or fourth day after reaching the river, more than half the force determined to abandon the expedition and marched for Fort Yuma, where they were received and their necessities supplied by Major Heintzelman, the United States officer in command. A few days afterwards another party reached Fort Yuma in a condition still more distressed than the others. As for Walker, he and twenty-five men had started back for Santo

¹ Wells, 33; Annals of San Francisco, 481.

Tomas on the Pacific. They still had a few cattle to live on, but were otherwise destitute. All were in tatters. Walker himself had but one boot and a small remnant of another one. With his retreat, all idea of taking Sonora or even of remaining in Lower California was of course given up; and the only thing left was to get safely back into the United States.¹

In the meanwhile a small Mexican force had collected to oppose him. Upon approaching the Pacific, he moved to and encamped at a place, called Tia Juana, about three miles south of the boundary line. The Mexicans posted themselves on the neighboring hills. Major McKinstry of the United States army, then in the vicinity, visited the opposing camps, as did also Captain Burton who was in command of the United States forces on the boundary line. In the parleys that took place, Melendez, the leader of the Mexicans, offered to allow Walker and his men to cross over into United States territory unopposed, if they would first surrender and deliver up their arms; but Walker replied that the Mexican general could only have his arms "if he could take them." Walker then took up the line of march towards San Diego and advanced to a point within a mile of the boundary, when the Mexicans, who had been maneuvering in front, came to a halt and made a stand as if to prevent his further progress. On a neighboring eminence were posted a number of spectators who had come out from San Diego to see the expected conflict. There was now nothing left for Walker but to attack; and he did not hesitate. He ordered his men to charge with their rifles at once; and they did so with such a cheer and such a display of energy and determination that the Mexicans, without awaiting the onset or firing a shot, put spurs to their horses and galloped off the scene, while the filibusters were left to pursue their way unmolested. At the boundary, before crossing, they had a further conference with Major McKinstry and Captain Burton, the result of which was that Walker and his men agreed to surrender themselves as prisoners and answer for alleged violation of the neutrality laws of the United States; and they were allowed to proceed to San Diego. At that place they gave their parole to report to General

¹ Wells, 34-36.

John E. Wool, who in the meanwhile had succeeded General Hitchcock in the command of the United States forces on the Pacific, and answer such charges as might be made against them. That parole was dated May 6, 1854, and was signed by thirty-four persons.¹

Upon reaching San Francisco, after his seven months' absence upon this most extraordinary expedition, Walker was lionized. The state of society and especially the state of politics at that time were such as to render him an object of attention. Though there was no question about his personal courage, there had not been a single move in all his campaign to indicate military genius; and he had escaped from the Mexican territory with a sound skin only by the merest luck. Looked upon in the light of ordinary reason his expedition had been quixotic in the last degree and his proclamations and decrees conspicuously ridiculous. But notwithstanding the apparent absurdity of the whole business there was enough in his project of enlarging the slave territory of the United States to make him a hero among pro-slavery politicians and their adherents, including the federal officials of California. Accordingly for a while at least after his return to San Francisco, and until the novelty and excitement gradually died out, his rooms were the resort of nearly all the leading men of the country.²

As a matter of form the federal officials deemed it necessary to institute a prosecution against Walker and a few of his most prominent companions for their violation of the neutrality laws. But it was known very well beforehand how such a prosecution would end. A few months previously Henry P. Watkins, the vice-president, and Frederic Emory, the secretary of state of the so-called republic of Sonora, who had abandoned the enterprise at a very early stage of it and returned to San Francisco, had been indicted and prosecuted for the same offense and by the same officials. On the trial of Watkins before the United States district court, the proof was so plain and convincing that a conviction could not be avoided; but the judge—and his remarks were significant of the state of affairs in those days—

¹ Wells, 36-38.

² Wells, 39, 40.

took occasion to express from the bench, in his charge to the jury, his sympathy with the accused and his admiration of what he was pleased to call "those spirited men who had gone forth to upbuild the broken altars and rekindle the extinguished fires of liberty in Mexico and Lower California." On April 7, two weeks after his conviction, Watkins was sentenced to pay a fine of fifteen hundred dollars; but nothing was said about imprisonment or other consequences in case of default of payment; and that was the end of the matter. He never paid the fine; and no attempt was ever made to compel him to do so. Emory saved himself the trouble and annoyance of a trial by pleading guilty; and he too was fined fifteen hundred dollars in the same manner; but nothing more was done to him than to Watkins. With these precedents in view, Walker had no cause to be anxious. He, together with Howard H. Snow, his so-called secretary of navy, and John M. Jernagin, his secretary of war, was indicted on May 24, 1854, and shortly afterwards his trial took place; and the climax was put to the farce of his prosecution by the farce of his acquittal.¹

After this experience, Walker resumed newspaper work, first on the San Francisco Commercial Advertiser and then on the State Journal at Sacramento. But he had by no means given up the dream of his ambition. In the meanwhile a new and unexpected opening was being prepared for him in Nicaragua. Affairs in that country had reached a point in which the so-called Democratic party, led by Francisco Castellon, had been defeated by the Legitimist party, led by Fruto Chamorro. As the result of that defeat, the Democrats lost the control of the navigation of Lake Nicaragua and the San Juan river, were dislodged from before Granada, hunted out of Rivas and driven like fugitives from every direction into the northwestern corner of the country, where they occupied Leon, Chinandega and Realejo but with little more freedom of action than the Legitimists had previously enjoyed at Granada. In the midst of the Legitimist triumph, Chamorro died; and his controlling position, for the want of a competent man to take his place, was filled by two persons, José Maria Estrada as political president and Ponciano Corral

¹ Annals of San Francisco, 524, 525, 537, 538; Wells, 40.

as military leader. But unfortunately Estrada had no vigor as president and Corral was dissatisfied in not having himself been made president; and between them, as there was no harmony, no advantage was taken of the disordered and demoralized condition in which the Democrats were placed.

It was some months previous to this time, and while the siege of Granada was still progressing, that a man of scheming and enterprising spirit, named Byron Cole, well known in California in the early days, proceeded to Nicaragua and proposed to Castellon to augment the Democratic forces by sending for the "renowned Walker," whom he represented as one of the bravest and most capable of American adventurers. Castellon and his advisers listened with eagerness and, after various negotiations, signed a contract authorizing Cole to engage the services of three hundred men for military duty on the Democratic side in Nicaragua, the officers and soldiers to receive a stated monthly pay and a certain number of acres of land, amounting to twenty-one thousand acres in the aggregate, at the close of the campaign. With this contract Cole immediately returned to California and laid it before Walker; but the latter was dissatisfied or, more probably, was satisfied that he could obtain better terms and declined to act under it. The main objection he put forward was that the enlistment of men in the United States for avowed military service in Nicaragua as proposed was directly contrary to the neutrality laws; but he said to Cole that, if he would return to Nicaragua and procure a favorable contract of colonization, of which he appears to have chalked out the terms, he would engage in the enterprise. Cole accordingly sailed again for Nicaragua and on December 29, 1854, obtained from the Castellon government a contract, designated a colonization grant, by the terms of which three hundred Americans were to be introduced into Nicaragua under the name of colonists, were to be guaranteed forever the privilege of bearing arms and were to receive, besides liberal pay for such services as they might perform, a grant of land, amounting in the aggregate to fifty-two thousand acres, to be selected from any unoccupied domain of the republic. This second contract was forwarded by Cole to Walker, who received it at Sacramento early in February, 1855,

and a few days afterwards proceeded to San Francisco for the purpose of raising funds and making arrangements to carry two or three hundred men with him to Nicaragua.¹

All the money Walker could raise at the time in San Francisco was only about one thousand dollars and all the men he could collect were only fifty-eight, including himself. It became usual afterwards, however, to speak of them as fifty-six; and this was the number fixed upon, not only by Walker but by others, for toasting them in post-prandial orations and on other like occasions. Among them were Achilles Kewen, who had commanded a company under General Narciso Lopez at Cardenas in Cuba in 1850; Timothy Crocker, who had served as a second lieutenant under Walker in his Lower California expedition; C. C. Hornsby, a veteran of the Mexican war; Dr. Alexander Jones, who had recently returned from a vain search for buried treasures on Cocos Island; Francis P. Anderson, who had served in Stevenson's regiment of New York volunteers, and several others widely known in the early days of California. "Most of them," according to Walker's description, "were men of strong character, tired of the humdrum of common life and ready for a career, which might bring them the sweets of adventure or the rewards of fame."² They sailed from San Francisco on the brig *Vesta*, after some delays caused by lawsuits against the owner of the vessel, on May 4, 1855, and reached Realejo on June 16, 1855. Walker immediately proceeded to Leon, some seventeen miles inland, where he met Castellon; and arrangements were made for the entry of the Americans into the service of the so-called Provisional or Democratic government. They were to constitute a distinct and separate corps, to be called "*La falange Americana—the American phalanx*," with Walker as colonel in command. That body, at Walker's suggestion, was at once to commence operations by an attack upon Rivas, the capital of the meridional department and only about fifteen miles northeast of San Juan del Sur, with an idea, not only of reoccupying and holding the meridional department but also,

¹ Walker, 24, 25; Wells, 41-43.

² Walker, 321; Wells, 46; *Reminiscences of the Filibuster War in Nicaragua*, by C. W. Doubleday, New York and London, 1886, 103, 104.

by effecting a lodgment in proximity to the transit route, of increasing the American numbers from passengers by the isthmus and insuring rapid and easy communication with the United States and especially with California.¹

It was intended to surprise Rivas. For that purpose Walker with fifty-five Americans and one hundred and ten native Nicaraguans, who had joined him, sailed in the Vesta for a little place, called El Gigante, on the ocean shore eighteen miles north of San Juan del Sur. From there they marched over the intervening rough country at night and in the rain, and on June 29 reached Rivas and immediately attacked it. But the Legitimists had already been informed of the intended assault and were prepared for it; and the result was that after a desperate conflict, known as the first battle of Rivas, Walker was compelled to retire and make his way as best he could to San Juan del Sur. There, for the want of any other means of escape, he seized a Costa Rica schooner, which had just arrived, and sailed northward until he overhauled the Vesta and in that vessel sailed back to Realejo. He had been defeated and lost several of his men, among whom were Lieutenant-colonel Kewen and Major Crocker; but he had fought against an enemy ten times more numerous than his own little band and had killed or wounded about one hundred and forty of them. As for the natives, who had accompanied him, they had held back when the fighting came on and finally ran away. It was plain, however, that the Americans were fighters, as against whom the Nicaraguans were no match, and that, although they had not been successful in their attempt upon Rivas, they had given proofs of such great superiority over the natives that their repulse under the circumstances almost amounted to a victory; and the impression produced upon the country was almost as great as if they had been successful.²

Walker's next principal move was to procure a new contract from Castellon and the Democratic party by the terms of which he was authorized to enlist three hundred men for military service at the pay of one hundred dollars per month and five hundred

¹ Walker, 27-41; Wells, 44-46; Doubleday, 109, 110.

² Walker, 42-68; Doubleday, 117-146.

acres of land at the close of the campaign for each man. He also procured from Castellon, so far at least as Castellon had power to give it, authority to settle all differences and outstanding contests between the Nicaraguan government and the Accessory Transit Company. He then made arrangements for a new attempt upon Rivas. On this occasion he landed at and took possession of San Juan del Sur with about fifty Americans and one hundred and twenty natives. From San Juan he marched to Virgin bay on Lake Nicaragua, where on September 3, 1855, he was attacked by a force of about six hundred Legitimists under Santos Guardiola, who had come out from Rivas with the object, as he stated it, of "driving the filibusters into the sea." But instead of accomplishing his purpose, he was defeated and compelled to slink back into Rivas, leaving sixty dead and about as many wounded on the field. This action, which was called the battle of Virgin bay, and was perhaps as much of a surprise to the Americans as to the Nicaraguans, produced a profound effect upon the country. It at once established the reputation of Walker and his companions and brought back to the Democratic party the prestige they had lost. Exiles and refugees began to return; deserters from the Legitimist ranks came over in numbers; and the Democratic cause prospered as it had not prospered for a long time before.¹

Affairs looked so unfavorable for the Legitimists that Ponciano Corral, their commander-in-chief, deemed it necessary to relieve Guardiola and himself take charge at Rivas. By so doing, however, he left Granada, the capital city of Nicaragua and the head-quarters of the Legitimist faction, so exposed that Walker now began to regard Rivas as of secondary importance and to look forward to the seizure of Granada itself. It soon appeared that the Legitimists were nearly exhausted and could not hold out much longer. In the meanwhile Walker, who had gone back to San Juan, had received there several accessions of men, among which was a force of thirty-five, under Charles H. Gilman, from California. On account of these accessions mainly, he now reorganized his force; changed its name from that of a falange to that of a battalion; and, retaining the chief command

¹Walker, 69-100; Doubleday, 151-163.

for himself, he made Hornsby colonel and Gilman lieutenant-colonel. His entire force by this time consisted of one hundred Americans and two hundred and fifty natives. He also had a brass two-pounder cannon brought from Leon and a new iron six-pounder obtained from the clipper ship Queen of the Pacific. With all these, on the morning of October 11, he started for Virgin bay and so timed his march that he arrived there just before the Accessory Transit Company's lake steamer, *La Virgin*, came in from the San Juan river. Hornsby in the meanwhile had received secret orders from Walker to board that vessel as soon as it should cast anchor and take possession of it. He did as he was ordered. The agents of the company protested and insisted that its vessels were American property and under the protection of the United States flag; but Walker answered that so far as its property in Nicaragua was concerned, the company was a creature of the Nicaraguan government and its vessels under the Nicaraguan flag, and that at any rate he had a perfect right, as a representative of the Nicaraguan government and in a case of vital importance to that government, to use any vessel found in the state, whoever might be its owner, for the transportation of troops. At the same time he allowed no one under any pretext to leave Virgin bay, so that none of the Legitimists knew anything or could learn anything about his designs upon Granada. The next day he embarked with his entire force on the steamer and as soon as the last man was aboard, about four o'clock in the afternoon, he ordered up the anchor and directed the pilot to land him as quickly as possible at Granada. As the steamer moved off northward towards that city, which lies at the northwest corner of Lake Nicaragua and only about forty miles from Virgin bay, and the native force became aware of whither they were being taken, their joy grew extravagant; and it was only with difficulty that they could be kept sufficiently quiet not to attract the attention of Legitimist scouts, who were posted along the lake, and thus betray the movement. It required but a few hours to make the run and the vessel anchored about ten o'clock that night near the shore three miles northeast of the city. Disembarkation immediately commenced and by three o'clock in the morning all were successfully landed,

without any of the Legitimists in Granada knowing anything of what was going on.¹

Though it was very dark, and especially among the forest trees where they landed, Walker and his troops soon formed into column—the Americans as usual in front and the native force in the rear. At first there was some difficulty in finding a road; but, as the light of dawn began to glimmer, they struck a highway, which led into the city. At sunrise, when they had approached within half a mile of the first houses, all the bells began ringing violently; and the Americans for a time thought that they had been discovered and that the Legitimists, with confidence in their own strength, were welcoming them to certain defeat. But this ringing was in reality only to celebrate a petty victory which the Legitimists had gained over the native Democrats at Pueblo Nuevo a few days previously. The bells were yet pealing when the Americans, seeing as they reached the outskirts of the city that the Legitimists were taken entirely by surprise, throwing off their coats and dropping their blankets, rushed forward with a shout. The first barricades were reached and passed; there were a few straggling shots here and there, which did not for a moment stop the advance; and in a very short time a shout from the head of the column announced that the plaza was won and the city taken. The loss of life was only two or three Legitimists and a single Democrat. When the Americans came to look around, they found that all the houses were closed; but that there was a remarkable abundance of foreign flags flying. Presently some places began cautiously to open their doors. That of the American minister was one of the first; and its interior presented a remarkable spectacle. About eighty or a hundred frightened women and children were huddled together in the court-yard, seeking protection under the folds of the American flag. Some of them had been taught to believe that the Democrats were all robbers and murderers and that a filibuster was a monster, more beast than man, before whom neither age, sex or condition was safe; and great was their surprise to find the terrible strangers, of whom they had heard such dreadful accounts, as mild-spoken and quiet-mannered men after the rush of the

¹ Walker, 102-111.

fray was over, as they had ever before heard or seen. And much the same kind of scenes presented themselves at the houses of other foreigners, wherever any prospect of safety was expected from the sacking and ravishing which were anticipated as soon as it was known that the city was taken. Nor were these anticipations altogether unreasonable. The native troops, who had been running up an account against the Granada people on old scores, actually commenced the work of plunder, which, if it had not been immediately checked by Walker as it was, would soon have degenerated into rapine.¹

It was at first no part of Walker's plan to transfer his headquarters to Granada. He regarded the possession of the transit route as much more important to him than that of any other part of the country and intended, after making himself master of the capital and acquiring such éclat as might be derived therefrom, to return to Virgin bay and from that point, if further fighting were required, to operate against Corral at Rivas. But his seizure of the capital gave him unexpected advantages and, as it proved, substantially put an end to the campaign and rendered his return to the transit unnecessary. In a very short time Corral, finding the fortunes of war setting like an irresistible tide against the Legitimist party, began to make overtures for an accommodation. Unfortunately Corral did not control all the Legitimists of the country and, quite as unfortunately perhaps, Walker did not control all the recruits flocking to his standard. Among them was a new party of about sixty Californians under the control of Parker H. French, who arrived at San Juan del Sur on October 17, 1855. French, finding Walker absent and feeling himself inspired with a desire to conquer something on his own account, seized a steamer at Virgin bay and proceeded to make an ill-advised attack upon Fort San Carlos at the head of the San Juan river on the opposite shore of the lake, in which he was defeated and compelled to make his crest-fallen way to Granada. The consequence of this attack was retaliation on the part of Legitimist partisans, some of whom attacked and plundered the American transit station at Virgin bay and killed several American citizens, passengers on their way across the isthmus. An-

¹ Walker, 111-114.

other Legitimist party at San Carlos fired upon a steamer bringing American passengers up the San Juan river and killed several more. Walker in return, and apparently with the idea of striking terror into his opponents, immediately ordered Mateo Mayorga, the Legitimist secretary of relations, whom he had taken prisoner upon seizing Granada and released upon parole, to be re-arrested, summarily marched out into the main plaza and there shot.¹

On October 23, 1855, ten days after the taking of Granada and one day after the shooting of Mayorga, Corral, who professed to act under authority duly conferred by the Legitimist party, concluded his accommodation or treaty with Walker. The latter had no authority whatever to act for the Democratic party but assumed to do so in virtue of his position and on account of the death of Castellon, who had succumbed to the cholera not long before. By the terms of the arrangement peace was declared between the contending parties and a new provisional government established with Patricio Rivas as president. He was to hold office for fourteen months, unless an election should be sooner called; and under him all military officers on both sides were to retain their respective rank and pay. All debts contracted by either party in the course of the war were to remain debts of the republic. All distinctive badges of old parties were to be thrown aside and the troops of the republic thenceforth to wear a blue ribbon with the device "Nicaragua Independiente." A few days afterwards the Legitimist forces all laid down their arms and disappeared from the field, and navigation by the transit route was again open and safe. It thus appeared that Walker had accomplished much more by the taking of Granada than he had at first contemplated or up to that time had supposed.²

President Rivas was inaugurated on October 30, 1855. One of his first acts was to appoint Corral minister of war and for the time minister-general; and Corral immediately afterwards, in accordance with the treaty, caused a decree to be issued appointing Walker commander-in-chief of the military forces of the re-organized republic. Corral seems now to have imagined him-

¹ Walker, 115-125.

² Walker, 125-130; Wells, 81.

self the virtual head of the new government; and he even went so far as to believe, apparently on account of the readiness with which Walker agreed to nearly everything he proposed, that he had gained the Americans to his own side and could thenceforward manage them for his own ends and, first of all, against his old enemies the Democrats. In this belief he attempted to fill up the cabinet of President Rivas to suit himself; but Rivas, having been cautioned by several prominent foreign residents as to Corral's evident purposes, applied to Walker and agreed to be governed by his advice; and in proof of his sincerity, at Walker's suggestion, appointed Maximo Jerez, former commander-in-chief of the Democratic party, minister of relations, Fermin Ferrer, another Democrat, minister of public credit, and the adroit Parker H. French minister of hacienda. Corral objected and expostulated, but was obliged to pocket his chagrin.¹

¹Walker, 130-134.

CHAPTER VII.

CALIFORNIAN FILIBUSTERS (CONTINUED).

WALKER was now at the zenith of his career. He had succeeded in lifting himself in a most extraordinary manner to the first position in Nicaragua. Though not nominally the head, he was virtually dictator. He wielded the military and all the real power of the republic. Though there may have been much question as to the constitutionality of the authority which he assumed, there was no one to call his title in question or to disturb him in the exercise of a most extensive jurisdiction. Constitutional law played no figure in Nicaraguan politics; and the proper distribution of the powers of the government, with strict limitations upon each so as to prevent interference and preserve independence, was a thing more or less talked about perhaps but not well understood and not at all practiced or insisted upon. Nothing important of any kind could be done without Walker's concurrence and consent; and hardly anything, if he once determined that it should be done, was too difficult, so far at least as it rested with the government of Nicaragua, for him to accomplish. It would seem that with anything like moderation and prudence he might easily have maintained the position he had thus reached, and continued without any great risk to his own station, under the name of commander-in-chief of the army, to hold the balance of authority and wield the real power of the state for an indefinite length of time. It is of course in vain to speculate as to what he might have done, if he had been a great moral hero; what a name he might have made, and what monuments of respect and admiration he might have raised. But even with his selfish objects of personal ambition and slavery propagandism, he could not have been seriously thwarted if he had continued to act with anything like the ability

which he had almost uniformly manifested from the time he had landed with his handful of filibuster adventurers at the harbor of Realejo till the day he ruled with all the power of a Cæsar over the cabinet at Granada.

From the moment, however, that he had thus reached the highest point, his fall commenced; and it was almost as rapid as his rise. Nearly everything he did from that time forward was a mistake—rash, reckless, inconsiderate, damaging to himself and fatal to his cause. It can not be said that his character changed, it only now began to manifest itself and show to the Nicaraguans what kind of a commander-in-chief they had and what his real objects were in coming and remaining amongst them. Hitherto in his struggles to attain position, he had had no occasion to expose himself or his purposes to special scrutiny and had given no unnecessary alarm. But the moment he attained position and began to act as ruler and attempt to carry out his programme, his character and his purposes became more and more patent; and almost every move he made, instead of strengthening his position: only made it weaker and more unsteady and, instead of enabling him to accomplish his objects, only rendered their accomplishment more difficult and at length impossible.

One of the first matters in which he took the main part as commander-in-chief and virtual dictator under the government was a deed of blood. Corral, the minister of war, whose chagrin with the course of events has already been noticed, being unable to overcome his dissatisfaction was imprudent enough to put his discontent and hopes for a speedy radical change upon paper in letters to some of his Legitimist friends. These letters fell into Walker's hands. He immediately charged Corral with treason and conspiring to overturn the government and convened a court-martial composed exclusively of Americans for his trial. There were no delays. The court met the next day. The testimony was short, as the facts of the genuineness of the letters and what they disclosed could not be contradicted. The accused only asked for mercy and that the circumstances of the case should be taken into consideration. Little remained to be done. After a short deliberation, he was found guilty and sentenced to "death by shooting" with a unanimous recommendation to the mercy of

the commander-in-chief. But if any member of the court really expected Walker to exercise anything like mercy, he was entirely mistaken. That tender quality had no place in his nature. He had made up his mind that Corral must be put out of the way. In his opinion and to use his own language, "Not only did duty to the Americans in Nicaragua demand the execution of the sentence, but it was politic and humane to make their enemies feel that there was a power in the state capable and resolved to punish any offenses against their interests." He accordingly unhesitatingly approved the sentence, disregarded the recommendation to mercy and ordered Corral to be shot on November 8, two days after the trial. On that day, in the public plaza of Granada, the execution took place—the fatal shots being delivered by a file of American riflemen. Corral's office of minister of war was immediately filled by the appointment of Buenaventura Selva, a decided Democrat; so that from that time, until a complete change took place, with the exception of President Rivas who however amounted to little or nothing, there was not a Legitimist official in the government. But it perhaps made no difference whether the offices were filled by Legitimists or Democrats. In all cases, Walker assumed to manage affairs to suit himself. He, as much as any despot named in history, was himself the state; and, if on any occasion he consulted the government or asked it to pass decrees, he did so only for form's sake and merely as a convenient mode of carrying out his own determinations.¹

On November 10, 1855, the second day after the execution of Corral, John H. Wheeler, the United States minister to Nicaragua, who had already on several occasions manifested a very decided leaning in favor of Walker, assumed to recognize the new government. This movement was evidently intended to commit the United States to Walker's course; and, on the supposition that the administration of President Pierce, who had appointed Wheeler, would recognize and approve his action, the occasion was made one of great pomp and ceremony. At the same time Walker, who had from the beginning been paying zealous court to the Nicaraguan clergy, succeeded in securing the favor and co-operation of José Hilario Herdocia, the vicar-

¹Walker, 135-139; San Francisco Herald of December 14, 1855.

general and highest ecclesiastic authority in the republic. And soon afterwards, as a further step towards strengthening his position, he established at Granada a newspaper, called "El Nicarguense," printed half in English and half in Spanish. All these proceedings, so far as Walker was concerned, were prudent and politic; but the next move, into which he was led partly by his necessities and partly by listening to the suggestions of unwise counselors, was one that involved the most disastrous consequences to himself and his cause. This was the virtual confiscation of the Accessory Transit Company's charter and property. Possibly in time, by a temporizing and not too extravagant exercise of the dictatorial power which he possessed, Walker might have overcome the secret apprehensions caused by his hasty and cruel executions of Mayorga and Corral; he might even by judicious management have succeeded in establishing a slave territory in Central America and seen himself lifted by force of circumstances in the course of a very few years into one of the most prominent political positions in the western world. But when he laid violent hands upon the transit company, he rashly threw away those chances by provoking to mortal conflict an enemy without whose aid he could not get along, against whom he had no good cause of conflict and who proved, when thus recklessly driven into opposition, much more vigorous and powerful than himself.¹

The Accessory Transit Company was the outgrowth of a contract, made in 1849 by Joseph L. White on behalf of himself, Cornelius Vanderbilt and other capitalists of New York with the Nicaraguan government, to establish a route of travel across Nicaragua between the oceans. The original project, which had been a subject of attention to the United States government ever since the days of President John Quincy Adams, contemplated the building of a ship-canal; and the first documents under which anything was done were signed on September 22, 1849, amended April 11, 1850. By the terms of this contract, the undertaking parties, who composed a corporation known as "The American Atlantic and Pacific Ship-Canal Company," were to commence the preliminary surveys within twelve months and finish the pro-

¹ San Francisco Herald of December 14, 1855; Walker, 141-145.

posed canal within twelve years. The charter was to run for eighty-five years after completion of the canal. For the first twenty years after its completion the state was to receive twenty per cent annually of its net profits after deducting the interest of the capital employed in its construction at the rate of seven per cent per annum, and every year thereafter twenty-five per cent of such net profit. It gave to the company the exclusive right, upon compliance with its provisions, of constructing an inter-ocean canal and establishing a transit route; and in the meanwhile, during the twelve years allowed for construction, the company was to have the exclusive right of navigating the waters of the state by steam and maintaining a transit route across the country, whether by railroad, carriage road or any other means of communication, on condition of paying to the state ten per cent of the net profits, without any deduction for interest, of any such route. In the summer of 1851, it having been apparently ascertained by the corporation that the ship-canal was, at least at that time, impracticable, Mr. White again visited Nicaragua and obtained a new charter for a transit route across the country in favor of a company, composed mainly of the same parties who were interested in the canal grant but to be known as the Accessory Transit Company. The object seemed to have been, in view of the great travel to and from California, to speedily provide a shorter and more popular route than that by way of Panama and for this purpose to separate the clauses of the original contract in reference to transit by means other than the ship-canal from those relating to the canal itself. The new company, or the old company under a new name, was therefore to enjoy all the rights, powers and privileges and be subject to all the obligations and conditions provided for in the original contract and charter, in so far as they were not in contradiction to and did not interfere with the rights granted to and duties imposed upon the canal company. On the basis of this new contract, a vast speculation, chiefly manipulated by Vanderbilt, took place in New York in the stock of the Accessory Transit Company; and, partly as the result of that speculation and partly as a means to maintain and increase it, the transit route by river and lake steamers and land carriages was estab-

lished. Travel commenced pouring over it in 1852. The first regular ocean steamers on the Pacific side, connecting with the transit road and usually called Nicaraguan steamers, were the Pacific and the Independence, which arrived at San Francisco on July 1 and July 11 respectively. They ran, in the start, to Realejo but afterwards, as soon as the road from Virgin bay to the ocean was built, to San Juan del Sur.¹

In the course of a year or two, by virtue principally of the keen business-like management of Vanderbilt in New York, supported by that of Cornelius K. Garrison the agent in San Francisco, the so-called Nicaragua route became a formidable rival of the Panama route and the business of the Accessory Transit Company expanded enormously. The distance from New York to San Francisco by way of Panaima was about five thousand seven hundred miles, while that by way of Nicaragua was not quite five thousand miles. It required longer to cross the one hundred and fifty miles from San Juan del Norte to San Juan del Sur than the fifty miles from Aspinwall to Panama; but there was a saving of over seven hundred miles of ocean travel in favor of the Nicaragua route. For these reasons a large proportion of the travel between the Atlantic states and California preferred the Nicaragua route; and the receipts of the transit company were exceedingly large. But, notwithstanding its income, it paid nothing or comparatively nothing to the Nicaraguan government. To all demands made upon it, the company answered that the proceeds were all expended as fast as received in improvements of the route, building of wharves and payment of official and other necessary outlays, so that there were no net profits and consequently nothing left for the government. It would be difficult to ascertain the exact truth as to how much the company in justice owed the government. But it was charged, and doubtless with much truth, that in the division of moneys received for passage between California and Atlantic ports almost everything was credited to the company that owned the ocean steamers and very little to the transit company.²

In the scheme to seize the transit company's property and

¹ Wells, 203-208.

² Wells, 209, 217.

particularly in the part that Walker took in it, he appears not to have acted entirely on his own judgment, but partly at least on the advice of two prominent Californian lawyers, Edmund Randolph and Alexander P. Crittenden. Both were warm personal friends, in whom he had implicit confidence. Both had examined the charter of the Accessory Transit Company in connection with its management and both expressed a clear and decided opinion that it had been forfeited. Founding their action on this real or supposed forfeiture, Crittenden and Garrison, with the concurrence of Walker but without letting Vanderbilt know anything about it, entered into a bargain to procure a new charter; and Randolph proceeded from San Francisco to Nicaragua for the purpose of formulating the necessary papers and manipulating the project at Granada. The plan was consummated by a decree, drawn up in English by Randolph, put into Spanish by Walker and Fermin Ferrer, and passed and signed by President Rivas at Walker's request on February 18, 1856. It recited, among other things, that the Accessory Transit Company held its charter for the sole purpose of the building of a ship-canal and that the destruction of the canal company implied the destruction of the transit company; that it had agreed to construct such canal but had failed to commence the work and declared it impracticable; that it had also agreed to construct a railroad or rail-and-carriage-road in case the completion of the canal was not possible but had done neither one nor the other; that it had agreed to pay the republic of Nicaragua ten thousand dollars annually and ten per cent of the net profits on any route it might establish between the two oceans but had failed to pay these amounts and falsely and fraudulently alleged that no profits were made and that no commissions were due, and finally declared the charter revoked and annulled. The next move was a second decree, reluctantly signed by Rivas on February 19, 1856, granting a new charter to Randolph and others; but both this and the first decree were kept secret from all except those who were connected with the plot until after the passengers then on their way from San Juan del Sur to San Juan del Norte had left the country. The object of the delay and concealment was not only to enable Garrison to prepare new lines

of ocean steamers before those running were taken off, but also to prevent the stoppage of those running which were next to sail from Atlantic ports. By this management the Accessory Transit Company was kept in ignorance of what had taken place; and on February 29, 1856, nine days after the decree revoking and annulling its charter, without suspicion of anything wrong, it dispatched a steamer from New Orleans with upwards of two hundred and fifty recruits for Walker, the payment of whose passage money was represented by drafts drawn on Vanderbilt, the president of the company. Had the decree not been held back as above stated, it would have been known in New Orleans and the steamer would not have departed or would certainly not have carried the recruits at the expense of Vanderbilt or the company. As it was, Vanderbilt not only found himself deprived of his charter but also maneuvered into an additional loss represented by the drafts for the passage money of the recruits. Under the circumstances it was no wonder that Vanderbilt from that time, however he may have felt before, became bitterly hostile to Walker and everybody and everything connected with him; and no wonder, considering the strength and energy of Vanderbilt's character, that his hostility was inextinguishable and that, when the proper time came, it made itself effective.¹

As soon as the decree of February 18, 1856, was published, commissioners appointed for the purpose under it proceeded to seize all the property of the transit company in Nicaragua, consisting of its lake and river steamers, wharves, warehouses, carriages, animals and in general the route and all its appurtenances. On the other hand Vanderbilt, as soon as he heard of it, went at once to Washington and complained to the United States government of the "great and violent outrage upon the rights of American citizens" that had been thus perpetrated. It does not appear that the United States government took any immediate action in response to Vanderbilt's complaint. It may be doubtful whether he made out such a case as would have justified active interference; but there can be no doubt that it had its effect upon the subsequent bearing of the United States

¹Walker, 148-156.

towards Walker's government in Nicaragua. Meanwhile an attempt was made by Randolph and his associates to keep up the traffic of the transit route; but from the moment of its seizure the confidence of the public in it was lost; its prestige was gone; passengers, afraid of being interrupted or delayed in their travels, refused to patronize it; the immense power and influence of Vanderbilt were withdrawn and there was no one to supply his place or counteract his opposition; instead of great profits there were henceforth only great losses; and in fine the so-called Nicaraguan line, which for about four years had been running semi-monthly steamers in and out of San Francisco and carrying thousands of passengers, was substantially broken up. Thus by his rash imprudence Walker destroyed the creature, which had for years been pouring wealth into the country and upon the existence of which, more than anything else, his safety and possibility of continuance in Nicaragua depended.¹

Another extraordinarily imprudent measure of Walker about this time was the appointment of Parker H. French as minister plenipotentiary to the United States. It was one of the most extraordinary appointments of a minister plenipotentiary on record. Walker himself said that French was utterly unfit for the position of minister of hacienda or the treasury department, which he then occupied; that he had little knowledge of either the principles or details of public business; that he had neither the modesty to be sensible of his own defects nor the patience to overcome them; that his rapacity made him an object of dread in Nicaragua; that as a measure of policy it was necessary to get rid of him, and that with this purpose in view he was appointed minister plenipotentiary to the government at Washington. It may be doubtful whether Walker's account of the reason of sending French was entirely true; it can hardly be believed that Walker could have really acted in so absurd a manner; but, whatever may have been the truth, it was in a certain sense an insult to the United States to send such a man; and the government of the United States seems to have been thoroughly justified in rejecting him, as it did. It being of the utmost importance to Walker to obtain recognition from the

¹ Wells, 210-217.

United States government, instead of sending French or any one else for the purpose of getting rid of him, Walker should have selected the very fittest and most unobjectionable man he could find. As it was, he not only had his appointee rejected; but, as the other Central American states had already complained of the violent seizure of Nicaragua by adventurers from the United States and the recognition by the United States minister of the government set up by the intrusive invaders, he at the same time called out an expression of opinion from the United States government, which could not under the circumstances be avoided, that it was not responsible for or in sympathy with Walker's action. The result was that the other Central American governments, finding that the United States had thus openly and expressly repudiated French and the government he represented, did not hesitate when the proper time came to take up arms against Walker.¹

Unfortunate, however, as Walker was in the choice of French to represent his new government as minister to the United States, he was quite as unfortunate in selecting Louis Schlessinger as his representative to the neighboring state of Costa Rica. Schlessinger was a Hungarian by birth who had served a sort of filibuster apprenticeship in the expedition of Lopez against Cuba in 1850; and that, with the exception of a smattering knowledge of the Spanish language, was about the only recommendation he had. His instructions were to remonstrate against Costa Rica's protection of Nicaraguan Legitimist refugees and to demand reparation for invectives published against the Nicaraguan government in Costa Rican journals. But he was given no opportunity to exercise his talents as a diplomat for the reason that the Costa Rica government, considering itself insulted both by the missive and the person to whom it was intrusted, refused to receive him and peremptorily ordered him out of the country. On February 27, 1856, almost immediately after Schlessinger's expulsion, Costa Rica declared war and authorized Juan Rafael Mora, its president, to take up arms against the republic of Nicaragua and "drive the foreign invaders from its soil." He

¹ Walker, 165-168; Wells, 99, 100, 147, 277, 278.

almost immediately afterwards marched an army of three thousand men towards the Nicaraguan frontier south of Rivas.¹

Walker's force at that time amounted to about six hundred men. Though the cholera, which had been raging with violence, had carried off many capable men, he had received numerous accessions, chiefly from California. These he organized into two battalions. On March 9, 1856, a new force of about two hundred and fifty men, chiefly from New Orleans, reached Granada; and two days afterwards they were organized into a battalion under Schlessinger and at once marched off against Costa Rica with the idea of striking the first blow and getting the advantage of prestige by a brilliant dash. With this object in view Schlessinger proceeded with his battalion to Virgin bay and from there marched to San Juan del Sur and thence to and across the Costa Rican frontier. His idea was to surprise and take Guanacaste, the most considerable Costa Rican town in that region. But, instead of swooping down upon his prey like an eagle—as Walker seems to have supposed him to be—he loitered and haggled on the road; got into numberless quarrels with his men, and, upon meeting an advanced body of the Costa Rican army at the hacienda of Santa Rosa, about twelve miles north of Guanacaste, after a few shots, ingloriously took to flight. He left twenty-four of his men dead on the field and lost nineteen prisoners, whom the Costa Ricans refused to recognize as prisoners of war and soon afterwards shot as filibusters.²

In the meanwhile Walker, in view of the declaration of war by Costa Rica, and expecting trouble also from Guatemala, San Salvador and Honduras, began concentrating his forces at Granada. The scattered bodies and particularly the rifle companies, which had been stationed at different points to keep down rising disaffection, were called in. About the same time a new company of recruits arrived from New Orleans and Parker H. French came also on his return from Washington. Though, on account of the failure of his mission, his power as minister plenipotentiary had been revoked, he still expected to play a prominent part in the Nicaraguan drama. But either because of the

¹ Walker, 159-165; Wells, 152, 153.

² Walker, 177-185; Wells, 153-166.

new turn affairs had taken or because Walker, hard pressed as he was for brains, could find no further use for a man so excessively clever, he was not again employed. Soon afterwards he left the country, withdrawing entirely from the filibustering business and thereby escaping in good time from a sinking ship and saving himself a great deal of danger and trouble.¹ On Sunday, March 23, 1856, upon receiving unquestionable information of the rout of Schlessinger's force and that the arrival of the Costa Rican army across the border might at any moment be expected, Walker determined to move the main strength of the Americans to Rivas. Orders to that effect were at once issued. At the same time the government was removed from Granada to Leon; the Granada and Rivas departments were put under martial law, and Walker, as general-in-chief, was invested with absolute power over those portions of the republic. Under the new plan, Walker established his head-quarters at Rivas. He had hardly done so when Schlessinger made his appearance, claiming that his want of success was owing entirely to the absence of experience and disciplined courage among his men. He even proposed to organize a new force, composed of better material, and proceed once again to take possession of Guanacaste. But when the other officers, who had been at the so-called battle of Santa Rosa and whom Schlessinger had far outrun in his retreat, made their report, he was charged with incapacity and cowardice and some went so far as to say that he had entered into a treasonable arrangement to betray the Nicaraguan force under his command. A court of inquiry was called to hear the charges; and on its report he was arrested for trial before a court-martial on charges of neglect of duty, ignorance of what was required of a commander and cowardice in presence of the enemy. Walker appears to have been still favorably enough impressed to allow him his liberty under his parole of honor. But about the time the court was ready to pronounce its judgment, he suddenly disappeared in violation of his parole and fled the country. A charge of desertion having been added to the charges previously made, he was convicted in his absence and sentenced to be degraded from his rank, shot for his neglect of duty and cow-

¹ Walker, 185; Wells, 102, 103.

ardice, and for his desertion to be published by name in the newspapers throughout the civilized world. What became of him afterwards is perhaps not important; but it was said that he joined the enemy. It is certain that whenever his name was subsequently mentioned among the Walker people and their friends, it was always received with objurgation or condemnatory groans.¹

Walker's army, most all of which was now gathered at Rivas, consisted of about twelve hundred men. They were brave and effective, but had much cause for apprehension at the situation of affairs and could not help feeling it. Costa Rica was in arms and Guatemala, San Salvador and Honduras were ready with more or less earnestness to join in driving out the hated foreigners. All the Nicaraguan Legitimists, on account of the executions of Mayorga and Corral as well as for other causes, were excessively hostile; and many of the native Democrats, on account of the general unwise policy pursued, were estranged or at least distrustful. To add to the accumulating difficulties, most of which he had thus called forth by his own imprudence, Walker now began to experience the consequences of his seizure of the transit route. At the very time when there was most need of recruits, he found that he had destroyed the chief means of getting them, because he had interrupted and for that time at least put an end to communication with the United States. Such being the case, the possession of the transit was no longer of prime importance, and Walker determined to return to Granada. He accordingly marched down to Virgin bay and on April 7 took passage with his troops on the lake-steamer, which proceeded, though in a roundabout manner, to Granada. As soon as he and his troops had embarked, Mora and the Costa Ricans crossed the frontier; advanced into the Nicaraguan territory; forcibly seized Virgin bay; wantonly destroyed a quantity of the property of the Accessory Transit Company and killed and despoiled the bodies of nine of its employees. From Virgin bay they proceeded to San Juan del Sur and thence to Rivas where they established themselves

¹ Wells, 168, 169, 257, 258; Walker, 186, 187.

² Walker, 191-195.

On April 8, within a few hours after reaching Granada, Walker, finding that the expected invasion from Guatemala and San Salvador was not so serious as the actual invasion from Costa Rica, determined to return again to Rivas and set out for that place by the direct road. His marching force consisted of five hundred and fifty men. At the little stream called the Gil Gonzales, within nine or ten miles of Rivas, he took prisoner a man who was charged with skulking in the neighborhood. From this man, who was tortured by hanging until he was nearly dead, Walker learned the particulars of the occupation of Rivas and how the Costa Rican forces were distributed there, after which he caused the man to be put to an ignominious death as a spy. Thence the next day he marched to Rivas and attacked it; but, finding himself too weak to cope with the Costa Ricans and after suffering great losses, he took advantage of the darkness of the next night and silently retired, without letting the Costa Ricans know anything about his retreat. His loss in this attack upon Rivas was found to be fifty-eight killed and some sixty-two wounded or one hundred and twenty in all. That of the Costa Ricans was supposed to be two or three times as heavy.¹

About this time and after the return of Walker to Granada, an enemy fiercer and more malignant than either the filibusters or the Costa Ricans attacked both parties. This was the cholera, which now became extremely virulent. The Americans lost many men; but their loss was more than made up by the arrival, about April 21, of two hundred and twenty new recruits from New Orleans. On the other hand the losses of the Costa Ricans were so heavy that the survivors became tired of digging graves and began to throw the dead bodies into the wells of Rivas. The effects of this disposition of the corpses rendered the fatality ten times greater than before and at length compelled Mora and the Costa Ricans to abandon Rivas and in fact Nicaragua. It was said that not more than five hundred of them lived to reach San José and that from ten to fourteen thousand persons fell victims to the scourge within the borders of the state. Whatever the real number may have been, it was enough to cause a sort of armistice, which for the time was called peace.²

¹ Walker, 195-204; Wells, 176.

² Walker, 206-214.

There had been for some weeks many rumors of the defection of President Rivas; and, only a short time before the withdrawal of the Costa Ricans from the city of Rivas, it was found that he had been clandestinely corresponding with Mora. Under the circumstances Walker deemed it proper to proceed to the seat of government at Leon; but he did not by so doing accomplish anything of importance either for himself or as against Rivas. On his return from Leon, however, he found that Rivas and Jerez had joined forces and united in inviting the Guatemalans to march into and take charge of that city. In the meanwhile, on June 10, 1856, a decree had been issued for the calling of an election for president, senators and representatives; and shortly afterwards Walker with the aid of Fermin Ferrer procured a decree to the effect that the Rivas government, being found unworthy of existence, was declared dissolved and organizing another provisional government until such time as the nation might exercise "its natural right of electing its own rulers." At the same time arrangements were made for an election under the decree of June 10. It took place accordingly on the fourth Sunday of the month and the two succeeding days; and it resulted, on account of the absence of any voting at Leon or in any part of the occidental department, in the election of Walker as president of the republic. Both the Granada or oriental department and the Rivas or meridional department voted for him, while the Leon or occidental department did not vote at all.¹

Walker's inauguration as president took place on July 12, 1856. He immediately appointed his cabinet, consisting of Fermin Ferrer minister of relations, Mateo Pineda minister of war and Manuel Carrascosa minister of hacienda and public credit. The organization of the new government was forthwith communicated to John A. Wheeler, the American minister; and he on July 19, as the representative of the government at Washington, recognized it—thereby acting on his own responsibility and in substance contrary to his instructions, which had been to recognize the government of President Rivas. His action had to be and was repudiated by the United States. As for Walker, he commenced

¹ Walker, 214-228.

his administration—if his assumption of office as president and the unexecuted and inoperative orders he issued can be called an administration—with a decree that “all documents connected with public affairs should be of equal value whether written in English or Spanish.” The effect of this was to cause all proceedings of a public nature, including those of the legislative and judicial departments, to be conducted in a language, which very few of the people of the country understood and none of them understood well. The next was a decree confiscating and forfeiting the property of all enemies of the state and the appointment of a board of commissioners “to take possession of, direct, determine upon, and sell all such confiscated or forfeited properties,” and it was further provided that all confiscated property should be speedily sold and military scrip received in payment therefor. Next was a decree requiring all claims to land to be recorded within six months, which of course gave an incalculable advantage to those understanding English and familiar with the practice of registering conveyances. The general tendency of all these decrees was the same. Walker himself said “they were intended to place a large proportion of the land of the country in the hands of the white race.” The fact plainly was that they were simply parts of a cool and deliberate but absurdly foolish and futile plan to rob and despoil the people of Nicaragua.¹

But the measure from which most was expected and upon which the whole policy of Walker’s administration hinged was a decree of September 22, 1856, declaring null and void all acts and decrees of the federal constituent assembly and of the federal congress. As one of the earliest acts of the federal constituent assembly was the abolition of slavery in Central America, it was of course repealed, with the result that, if the repeal did not of itself re-establish slavery, it at least prepared the way for its re-introduction. It was a tricky method of accomplishing his object, similar in some respects to the indirect method adopted in Lower California; but there could be no doubt of its purpose and Walker supposed, in his pro-slavery zeal, that the entire people and especially the politicians of the southern portions of

¹ Walker, 228–254.

the United States would now crowd to his relief and support. He insisted that the true field for the exertions of slavery and its advocates was in tropical America. He termed the enemies of slavery extension the enemies of American civilization. He looked forward to the re-establishment of the African slave-trade. And he charged the south in neglecting him and Nicaragua with carelessness, inattention and supine indifference to its own interests.¹

Meanwhile the allies, as they were now called, consisting of the Leonese together with reinforcements from Guatemala and San Salvador, amounting in all to about eighteen hundred men, marched to Managua at the south end of Lake Managua and thence to the village of Nindiri on the road to Granada, where they were joined by about five hundred men more. Walker's effective strength at Granada was about one thousand men. On the morning of October 11, with the idea of forestalling the march of the allies towards Granada, Walker marched out with about eight hundred of his men to Masaya, a town about half way between Granada and Managua; but, while he was there fighting one portion of the allies, he heard that another portion had begun to besiege Granada; and he hastened back for the relief of that place. During most of the time, including October 12 and 13, and both at Masaya and Granada, there was a struggle; and the result was twenty-five of the Americans killed and eighty-five wounded, and of the allies a still larger loss. On November 11 Walker, hearing that the Costa Ricans had again entered the meridional department and were barricaded on the transit road between Virgin bay and San Juan del Sur, proceeded thither by way of the lake with two hundred and fifty rifles and dislodged them. On November 13 he returned to Granada and two days afterwards marched with about three hundred men to Masaya for the purpose of again tackling the allies. At Masaya a fight took place for the possession of the town. It consisted mostly of cutting through adobe walls and hand-to-hand conflicts as opposing parties met one another. It lasted nearly three days, when Walker deemed it prudent to retreat; and accordingly on the night of November 17 he silently withdrew in the

¹Walker, 254-280.

darkness and marched back to Granada. His loss during the three days was about a hundred.¹

The toils were now being drawn closer and closer around Walker. A new force of about eight hundred Guatemalans had joined the allies in the north, while Jerez had marched with about the same number of men from the north towards Rivas with the object of supporting the Costa Ricans. Under the circumstances Walker deemed it necessary to evacuate Granada and proceed to Rivas for the purpose of making head against the enemy in the meridional department and protecting the transit. Before doing so he determined to destroy as well as abandon Granada; and accordingly on November 22, after removing the sick and wounded together with the women and children to the island of Omotepe, torches were applied and the conflagration began. As it progressed the soldiers charged with the work managed to get hold of large quantities of liquor and nothing could restrain them from drinking it to excess. In spite of guards and sentries, orders and officers, they became wildly intoxicated and in their drunken orgies presented a scene resembling what has been feigned of pandemonium. While in this condition of intoxication and disorder, on the afternoon of November 24, they were attacked by the allies and a desperate fight occurred, which was kept up with varying fortune for twenty days. The American force, to whom was committed the task of burning Granada, consisted of four hundred and nineteen men under command of Colonel Charles F. Henningsen, an able officer who had recently arrived from New York. Of this number on December 14, when Henningsen finally managed to withdraw from Granada, one hundred and twenty were dead of cholera; one hundred and ten were killed or wounded; about forty had deserted, and two had been made prisoners. When Henningsen withdrew that night he left an inscription, stuck up on a lance, consisting of the words in Spanish, "Aqui fué Granada—Here was Granada"—and in fact most of the city had been destroyed. Little or nothing remained but a mass of smoking ruins.²

¹ Walker, 281-312.

² Walker, 314-340.

While Henningsen was thus fighting against fearful odds at Granada, Walker spent most of his time on one of the lake-steamers, endeavoring to succor him; and at last, just before Henningsen's withdrawal, he succeeded in landing one hundred and sixty men, who materially assisted Henningsen in effecting his retreat. The whole force about two o'clock on the morning of December 14 was embarked on board the steamer *La Virgen*. It immediately proceeded down the lake but had not gone far when the wind rose and it was compelled to seek shelter under the lee of Omotepe. A few hours afterwards, when the wind fell, the steamer crossed over to San Jorge, a little place on the lake shore north of Virgin bay and nearly on the parallel of Rivas. There Henningsen and his troops joined the other Americans, some eight hundred in number, who had been concentrating at that place; and thence they all marched to Rivas, which on the news of Henningsen's withdrawal from Granada had been hastily abandoned by the Leonese, who had recently marched thither under Jerez. While the latter marched back to Masaya, the Americans on December 16 marched into and again occupied Rivas.¹

Walker had by this time managed to array almost every element of strength in the country against him. Besides incurring the undying hate of the Legitimist party, beginning with his original attack upon it, strengthened by his execution of Mayorga and Corral and subsequently of another prominent Legitimist, named Francisco Ugarte, for alleged treason in joining the Costa Rican invasion, and intensified by his wanton destruction of Granada, he had also succeeded in driving off the Democratic party not only by his assumption of the presidential office, the fulmination of dictatorial and despotic decrees and the waging war against it, but also by the execution on August 3, 1856, on the same plaza where Corral had suffered, of Mariano Salazar. This man, one of the most prominent Democrats, had been taken prisoner a few days before and charged, like everyone else, whom Walker wished to get rid of, with treason to the new government. As he had been looked upon by the Legitimists as their greatest and most effective enemy, they manifested

¹ Walker, 308, 333-341.

as much exultation in his execution as the Democrats had previously manifested in the execution of Corral. But it did not make them any greater friends to Walker. On the contrary he became day by day more and more execrated not only by all the people of Nicaragua but also by all their neighbors of Costa Rica, Guatemala, San Salvador and Honduras.¹

Among the men on the Walker side in Nicaragua, there were two who manifested much talent and who in a good cause and under favorable circumstances would doubtless have acquired great distinction. One was Major Alfred Swingle, a native of Maryland, who developed into a very efficient artillery commander, brave, fertile in resources and ingenious in mechanical contrivances. When he ran out of six-pounder cannon-balls, he supplied the deficiency by making holes of the proper size in sand, filling in small pieces of iron and pouring in melted lead, which on cooling held the iron together and made serviceable shot.² The other was Lieutenant, afterwards Captain, Callender I. Fayssoux, a native of Missouri, who had been placed in command of a little American schooner, originally belonging to Costa Rica and called the *San José* but afterwards seized by Walker, converted into a Nicaraguan war vessel and named the *Granada*. Fayssoux with his little vessel, carrying only two six-pounder carronades, made himself complete master of the ocean waters on the Pacific side of Nicaragua as against all vessels the allies could send against him and on November 23 won a remarkable naval victory over and sunk a Costa Rica brig, called the *Once de Abril*, carrying one hundred and fourteen men and four nine-pounder guns.³

But the most eminent military talent displayed in the course of the war was manifested by another American, named Sylvanus M. Spencer, who took the part of the Costa Ricans. This man, who seems to have previously been an employee of the transit company, marched a body of one hundred and twenty Costa Ricans from their capital *San José* to a point on the *San Carlos* river some miles above its mouth. From that place he

¹ Walker, 212, 234, 235.

² Walker, 293, 318, 326-329.

³ Walker, 229, 230, 233-235, 315-318.

floated his men down that river and the San Juan on rafts to the mouth of the Serapaquí. There on December 23, he surprised at dinner the Walker party commanded by Philip R. Thompson, which had been stationed at that point, and killed or wounded almost all of them. Thence, after being reinforced with a large body of soldiers under José Joaquin Mora, he again took to his rafts and floated down to San Juan del Norte and on the morning of December 24 seized and held possession of all the river steamers lying at the sand-spit opposite Punta Arenas. Thence Spencer made his way back up the San Juan river to the mouth of the San Carlos river, whence he had started. From there he proceeded to and occupied Castillo on the San Juan river; and thence, taking the river steamer up the Toro Rapids, he succeeded, by concealing his men, in surprising and seizing the lake steamer La Virgen. He next went to Fort San Carlos and managed with extraordinary skill to get possession of it. Spencer thus acquired possession and had entire control of the San Juan river from its head to its mouth. He also had the steamer La Virgen and all that remained for him to do, to obtain entire control of the lake, was to seize the lake steamer San Carlos; and this he succeeded by judicious management in doing on January 2, 1857. By these master strokes, he not only opened communication between the Costa Ricans and the allies at Masaya, but he also penned Walker up in Rivas.¹

About this time some two hundred men arrived at San Juan del Norte for service in Nicaragua and were placed under command of Colonel S. A. Lockridge, who moved them to a point on the San Juan river a few miles below the mouth of the Serapaquí river. These men had come from New Orleans in the steamer Texas; and on the return of that steamer on February 4, 1857, it brought one hundred and eighty men more under the command of H. T. Titus of Kansas, who rejoiced in the reputation of having been a leader of the "border ruffians" of that territory. Lockridge, after the arrival of Titus, managed to get possession of Cody's Point just opposite the Serapaquí; but there was little or no discipline or subordination among the newly arrived forces and almost everything they attempted failed.

¹Walker, 342-348.

If the Costa Ricans had continued to employ Spencer or any other man even half so good to lead the Costa Rican soldiers, they might easily have destroyed Lockridge and Titus and all their forces; but it seems that Mora felt himself belittled by Spencer's achievements and managed to have him removed. Even without Spencer and without any sort of ability in their leaders, but simply on account of the utter inefficiency and demoralization on the part of the forces under Lockridge and Titus, the Costa Ricans soon found that the San Juan river was abandoned by their enemies and that they were again in complete and absolute possession of it.¹

In the meanwhile Walker remained penned up in Rivas. His entire force there on January 3, 1857, consisted of nine hundred and nineteen men and his whole business was to get ready for an attack. On January 26, he received information of the advance of the allies, who were now marching, under the command of José M. Cañas, to Abraje, a small village on the south bank of the Gil Gonzales river and about three leagues distant from Rivas. Some futile attempts were made to retard their advance, but on the evening of January 25, they occupied San Jorge, only about two miles east of Rivas. There they threw up barricades. On January 29 an attempt was made by Henningsen to drive the allies out of San Jorge; but it failed with a loss of about eighty killed and wounded. On January 30 Walker marched with two hundred and fifty men to San Juan del Sur and thence to Virgin bay, from which place he marched back to Rivas; but this march, like another march on February 4 towards San Jorge, accomplished nothing. Meanwhile barricades and other defenses were being thrown up at Rivas; and Swingle succeeded in producing a hot-air blast, which enabled him to melt iron; and he thereupon cast the first cannon-balls ever made in Central America and thereby supplied a want which was seriously felt. When iron ran out, he collected old church bells and cast their metal into round shot. But by this time desertions became frequent. In the twenty-four hours up to the morning of February 6 there were twenty, and on February 8 six. Previous to

¹ Walker, 354-355.

that a number had deserted carrying off their horses, saddles and arms.

Between this time and May 1, 1857, a number of little skirmishes took place most of them brought on by ill-advised sorties, of which Walker lost. On March 5 William Caycee with his force was surprised between Rivas and San Juan del Sur and six men killed and wounded. A few days afterwards Eliza Somers and Caycee with about two hundred men had a skirmish with the same number of allies at a place called La Corte near the trunk road and were defeated and driven off with a loss of twenty-eight men. On March 16 Walker himself with four hundred men having two iron six-pounders, one twelve-pounder howitzer and four small mortars, marched out to attack the allies at San Jorge; but by so doing he exposed his force to the enemy and found great difficulty in getting back without his batteries. His loss was seventy-six killed and wounded. In the day after the action at San Jorge the allies under General Juan Fajardo, about half a mile east of Rivas, and from there began firing twenty-four-pound balls into the town of San Jorge converted by into six-pound shot and in that way sent the men back to the allies. Meanwhile desertions became more and more frequent and Walker was at length reduced to very narrow limits. On March 24, the women and children of Rivas were sent to San Juan del Sur under protection of the United States flag.¹

On February 2, 1857, the United States sloop-of-war St. Mary's, under command of Charles H. Davis, had anchored at San Juan del Sur, and soon afterwards Commander Davis had visited Walker at Rivas and the allies at San Jorge. His main object seems to have been to protect life and property. He had, with this purpose in view, been instrumental in preventing the schooner Granada under Fayssoux from firing into San Juan del Sur; and he was finally instrumental in getting Walker out of the country with a whole skin. Having made arrangements with the allies, by which this object might be accomplished, he on April 30 wrote to Walker proposing that he should abandon Rivas and

¹ Walker, 371-385.

² Walker, 388-411.

take passage on the St. Mary's for Panama—Davis undertaking to guarantee his personal safety. Walker answered that he thought the proposition vague. Davis replied that he was sorry Walker found his proposition vague; but that he simply proposed that Walker should "abandon the enterprise and leave the country." After some further negotiation, in which Walker stuck for a few very small points while he yielded on all important ones, a convention was finally on May 1, 1857, arrived at, by which it was agreed that Walker and sixteen officers of his staff should march out of Rivas with side arms, pistols, horses and personal baggage and be allowed without molestation to embark on the United States sloop-of-war St. Mary's in the harbor of San Juan del Sur and be transported to Panama; that all others in the service of the Walker government in Nicaragua should also be safely transported to Panama, and that all natives desiring to remain in Nicaragua should be allowed to do so and be protected in life and property.¹

As soon as the convention was agreed on, Henningsen returned to Rivas and ordered all the ordnance and ammunition to be destroyed as far as it was possible to destroy them. Walker meanwhile with his sixteen officers marched down to San Juan del Sur and went aboard the St. Mary's. Soon afterwards Walker ordered Fayssoux to surrender the schooner Granada; and on May 4, 1857, the vessel was turned over to a Jamaica negro, known as Captain Murray, who received it for and in the name of Costa Rica. Walker at the same time publicly complained that he had been reduced to the desperate situation he occupied "by the cowardice of some, the incapacity of others and the treachery of many;" but, instead of having reason to complain of anything, he ought to have been glad of his great good fortune in being thus permitted to escape with his life. Had Castellon and the Democratic party of Nicaragua had a particle of honest intelligence or intelligent honesty, he would never have set foot in the country, and certainly would never have been tolerated after he showed himself in his true colors.² The governor of Panama, when the St. Mary's arrived there,

¹ Walker, 385-387, 414-425.

² Walker, 426-430.

immediately sent word that under no condition should any one, who had been in any way connected with the Walker expedition, be allowed to enter the city or remain in the country; and all were required to cross the isthmus under guard to Aspinwall, where immediately Walker and most of his comrades took passage for New Orleans and Henningsen and others for New York.¹

It appears, or at least has been reported on apparently trustworthy authority, that the number of filibusters, who joined Walker in the course of the two years he spent in Nicaragua, amounted to about seven thousand from the Atlantic states and thirty-five hundred from California. It was also said that no less than fifty-seven hundred filibusters found graves in Nicaragua during the same time.² It would have seemed that Walker, after his experiences, should have had enough of filibustering. But it was not so. Almost immediately upon arriving at New Orleans, he commenced enlisting recruits, under the name of "emigrants," for a new expedition; and soon afterwards a hundred and fifty of his men, managing to escape the United States officers whose duty it was to stop them, sailed from Mobile in the schooner Susan. They, however, suffered shipwreck on a coral bank, called Glover's reef, about seventy miles from Belize. After numerous adventures, they were rescued and returned free of charge to Mobile by the British sloop-of-war Basilisk.³ About the same time Walker himself took passage from New Orleans on board the steamer Fashion with one hundred and thirty-two men for San Juan del Norte and landed at Punta Arenas on November 25, 1857. There he formed a camp; hoisted the Nicaraguan or red-star flag; called the place the "head-quarters of the army of Nicaragua," and signed himself commander-in-chief. With these pretensions he claimed the right of a lawful general over all persons and things within sight of his flag. He landed men at the mouth of the Colorado river; seized the fort of Castillo on the San Juan; captured steamers and goods in transit; killed several inhabitants, and made prisoners of others.

¹ Last of the Filibusters, &c., by Wm. Frank Stewart, Sacramento, 1857, 54; San Francisco Herald of June 16, 1857.

² Stewart's Last of the Filibusters, 85.

³ Doubleday, 197-215.

Commodore Hiram Paulding of the United States flag-ship Wabash, then on that coast, regarded these acts as rapine and murder and Walker and his men, committing them, as outlaws and pirates. He said that humanity, as well as law, justice and national honor, demanded the dispersion of such lawless free-booters. He therefore on December 8, 1857, seized and broke up the camp; disarmed Walker's followers, and sent them for trial or whatever disposition the government might see fit to make of them to the United States. As for Walker himself, Paulding gave him the option to accompany his men in the ship Saratoga or go in the Wabash to Aspinwall and thence take passage at his own expense to New York. Walker preferred the latter alternative and was allowed to go on his parole of honor that on arriving in New York he would deliver himself into the custody of the United States marshal. But as there were many pro-slavery men, as well as sympathizers with Walker or at least with the cause which he advocated, not excluding the United States marshal himself, Walker ran no risks and suffered no inconvenience in being nominally under custody. With certain parties, and particularly those in authority at the time, Walker and his men were rather heroes to be honored than filibusters to be punished; and none of them were prosecuted.¹

Walker's next and last expedition was in August, 1860. He on this occasion sailed from New Orleans with about two hundred men and landed near Truxillo in Honduras; and he there, with the intention of making his way thence through Honduras to Nicaragua, discharged his vessel. But he soon found that his new levies were very different men from the Californians with whom he had previously taken Rivas and Granada. They refused to stand up against the odds arrayed against them. After several vain efforts to make head against numbers, being convinced of the hopelessness of his situation, he was prevailed upon by the captain of the British steam man-of-war Icarus, then lying in port, to surrender to him as a representative of the protectorate over British Honduras. This captain, however, no sooner received a formal demand for Walker's person from

¹Stewart, 240-246.

the Honduras military authorities than he turned him over to their tender mercies. He was of course doomed from the moment they got possession of him. A so-called court-martial was at once convened; he was put on his trial for capital offenses; he knew it was useless to attempt a defense and scarcely deigned to answer the charges; with a haste that indicated fear on the part of the Honduras authorities even with Walker in their hands, he was condemned; and in a few days afterwards, on September 25, 1860, he was marched out and, in accordance with his sentence, shot to death. It was said that ten balls were fired at him amid the cheers of the natives; and that his body was afterwards buried by foreigners.¹

The last of the filibusters was Henry A. Crabb. He was a native of Tennessee, born about 1827, and came to California in the early part of 1850. Having made his home at Stockton, and being by profession a lawyer and by training a public speaker of marked ability, he was in July, 1850, elected to the office of city attorney of that place. In 1851 he was elected to the state assembly and served in the session of 1852. At the end of that year he was elected to the state senate and served in the sessions of 1853 and 1854. In the politics of the day he was a Whig; but, more than Whig or anything else, he was a violent and aggressive pro-slavery man. While in the senate, he advocated the calling of a new constitutional convention and, among other changes, the division of the state. He was likewise said to have been the author of a bill to authorize persons, who previous to the admission of the state had brought slaves into the country, to take such former slaves back into bondage. He was also said to be one of the authors of a secret circular addressed in 1853 to some of the leading Whigs of the state, advising the abandonment of the old name of Whigs and the adoption of that of "California Republicans" and that they should make the division of the state one of their cardinal principles. His whole policy seemed to hinge on a new deal, different from the constitution of 1849; and, though he disclaimed any desire of the kind, it was believed by many persons and particularly by the

¹ Doubleday, 216-218; *The Gate of the Pacific*, by Commander Bedford Pim, London, 1863, 49, 50; Ex. Doc. 35 Con. 1 Sess., No. 24, 22.

anti-slavery men of the state, that the result of his project would be to create difficulty on the slavery question and to legalize slavery at least in the southern portion of the territory to be divided. Failing to accomplish his object with the Whigs, he in 1855 joined the so-called Know-Nothing party and became so prominent in that organization that in the legislature of 1856, after the Know-Nothing triumph in the autumn of 1855, he became a formidable candidate for United States senator. Had he not been so pronounced an advocate of slavery, he would doubtless have been chosen; but that advocacy rendered his election impossible; and he was compelled to withdraw.¹

In the early part of 1855 Crabb had visited Nicaragua and came near taking part on the side of the Democratic party in the conflict that was then raging between the Democratic party under Castellon and the Legitimist party under Chamorro. His own political ambition for the United States senate, then almost within his grasp, however, induced him to relinquish all projects of aggrandizement in Nicaragua and devote himself exclusively to the struggle for Californian honors. Having failed in this, and feeling himself obliged to give up the dream of his ambition as a United States senator, and finding that Walker to whom he had relinquished his claims on Nicaragua was regarded as a very important personage and his name trumpeted abroad by the noisy clarion of fame, he resolved to turn his attention to Sonora, the old field of filibuster adventure, which was now again open to any man with sufficient enterprise and ability to seize and hold it. He was the more induced to look in that direction for the reason that his wife Filomena, whom he had married at San Francisco in 1853, was one of the Ainsa family, claimed to be a descendant of Juan Bautista Anza who in 1774 opened the overland route from Altar to the junction of the Colorado and Gila rivers and thence across the Colorado desert to San Gabriel Mission, and had numerous and influential relatives in Sonora. It was through these relatives, as was said, that Crabb received an invitation to bring an armed force; overthrow the government, and take possession, for his own benefit

¹ California Chronicle, steamer edition of January 20, 1856; Senate Journal, 1853, Appendix, No. 16.

and doubtless for their own also, of the country. He accepted the invitation; collected in January, 1857, a force of about one hundred men armed with rifles, pistols and daggers; sailed with them on the steamer Sea Bird from San Francisco to San Pedro, and thence marched overland for Sonora. He published and pretended that he was going to carry on mining business in the Gadsden Purchase; but his real purpose was to revolutionize Sonora, conquer it and in time add it to the slave states. There can be no doubt that this was his ultimate purpose and that all he did was calculated, as well as he could plan, to effect this object.¹

Nearly all of Crabb's men were mounted and they had with them two wagons laden with provisions and one with munitions of war. Upon reaching Fort Yuma on the Colorado river, the greater part of them got drunk and in their imprudent glee boasted that Sonora was already theirs. On March 21, 1857, about fifty-five of them reached Sonoita, a small place just south of the boundary line and about one hundred miles southeast of Fort Yuma. There they seized and slaughtered several cattle, saying that their captain who was behind would pay for them. They also procured some flour. They were very vigilant in posting sentinels while camping, but careless and disorderly on the march. Crabb himself, when he reached Sonoita, stated that he knew that hostile preparations were being made against him and his party; and he protested again that he had come with pacific intentions. From the same place, on March 26, 1857, he addressed a letter to José Maria Redondo, prefect of the district of Altar, stating that in conformity with the colonization laws of Mexico and in compliance with special invitation from some of the most prominent and influential citizens of Sonora, he had entered the state with one hundred followers and in advance of nine hundred more, with the intention of finding happy firesides with and among the people. He protested that he came with the intention of offending no one and without public or private intrigue. He had made no sinister demonstrations and had only peaceful purposes. It was true he had come with arms and munitions; but it was not common

¹ Walker, 25-27; Ex. Doc. 35 Con. 1 Sess. H., No. 64, 71.

for Americans or any other civilized people to go unarmed, especially where the Apaches were continually committing depredations; and he was therefore surprised that the people of Sonora were hostile to him. He was aware, he added, that the prefect had given orders to poison the wells and was ready to employ the vilest and most cowardly weapons; but let him take care that his barbarous acts did not recoil upon his own head and the heads of his associates. He understood that it was the intention that he should meet his death from an enemy wanting in humanity; "but if blood is to flow with all its horrors," he continued, "on your head be it and not on mine. Yet you may rest assured, while pursuing your hostile preparations, that as regards myself, I shall go where I have long intended to go; and I am only waiting for my emigrants. I am the principal head; and I intend to act according to the dictates of natural law and self-preservation."¹

Crabb gave notice in the letter referred to that he was on his way to Altar. Meanwhile Ignacio Pesquiera, governor of Sonora, was making preparations to obstruct his advance and, besides issuing orders for calling out ample forces, himself prepared to take the field. On March 30, 1857, he issued from his head-quarters at Ures one of those grandiloquent addresses, characteristic of Mexican generals, in which he called upon the Sonorans to "chastise with all the fury, which could scarcely be restrained in breasts full of hatred for oppression, the savage filibusters, who had dared, in an evil hour, to tread on the national territory and to provoke—madmen that they were—our anger. No pity, no generous sentiments for that rabble! Let them die the death of wild beasts, who, trampling under foot the law of nations and despising the civil law and all social institutions, are bold enough to invoke as their only guide the natural law and to ask as their only help the force of brutes!" Further on, he spoke of them as "that accursed horde of pirates without country, without religion, without honor;" and in conclusion he adjured the people to "open their hearts and give free vent to the enthusiasm which was swelling in them! Long live Mexico! Death to the filibusters!"²

¹ Ex. Doc. 35 Con. 1 Sess. H., No. 64, 9-31.

² Ex. Doc. 35 Con. 1 Sess. H., No. 64, 31-33.

Meanwhile, on March 27, Crabb with about sixty-eight men had left Sonoita for Cavorca, a town half way between Sonoita and Hermosillo. On April 1, about eight o'clock in the morning, when within a half mile of the latter place, as they were riding along in careless order with no sort of military array, without scouts in advance or anything like discipline or organization and not anticipating any fighting or expecting any opposition or resistance to their advance, they were suddenly fired upon by about one hundred and fifty men lying in ambush. Notwithstanding the attack, they continued their march, being constantly fired upon but returning the fire whenever an enemy could be seen. About four hundred yards from the houses of the town the lane, which they had been following, opened upon a clear space. While crossing this space, they were fired upon in almost every direction from behind houses and fences. Upon gaining the shelter of the houses, which they reached and took possession of about nine o'clock, the Americans were to some extent protected from the fire; but they found that two of their number had been killed and eighteen wounded, three mortally. There they remained in comparative safety, but exposed to shots from a church not far distant, until two o'clock in the afternoon, when Crabb and fifteen of his men, carrying a keg of gunpowder, made an attack upon the church with the intention of blowing open its doors and taking possession of it as a safer place of refuge. In pursuance of this purpose they sallied forth; crossed the street, and approached the church, though exposed to a severe fire by which five of them were killed and seven wounded, including Crabb himself who received a severe hurt in the arm above the elbow. But finding their design impracticable, they were obliged to return to the adobe houses they had previously occupied; and there they remained closely besieged until the evening of April 6, when the roof of their quarters was set on fire. The Americans, with the object of blowing out the fire, exploded a keg of gunpowder; but it did not accomplish the purpose intended; and they then made overtures to surrender, to which the Mexican authorities replied that all who surrendered should be treated as prisoners of war.¹

¹ Ex. Doc. 35 Con. 1 Sess. H., No. 64, 64-66.

Crabb, upon this information, sent one of his followers, named Hines, with a flag of truce to arrange terms of surrender. What took place with Hines is uncertain; but it was claimed in his behalf that the Mexicans would not permit him to return, and that he merely called out that the Mexican commander promised to send the Americans to Altar and there give them a fair and impartial trial on condition that they would lay down their arms and march out of their house and surrender one by one. Being however not entirely satisfied with such a promise, Crabb requested another of his followers, a brother-in-law named John A. Cortelyou, to inquire again of Hilario Gabilondo, the commander of the Mexican forces, how the Americans in case of surrender were to be treated; and Gabilondo again answered that they should have a fair trial. When asked how the wounded would be treated, Gabilondo replied that they should have a good surgeon and be well cared for. While this conversation was taking place, Cortelyou stood in the door of the American stronghold, while Gabilondo was in the belfry of the church. Some of the Americans had little faith in this method of negotiation and were unwilling on such promises to surrender. But Crabb said he believed they might rely upon the Mexicans; and they all finally consented to lay down their arms and deliver themselves up one by one. As they did so, the hands of each were crossed behind his back and tied; and he was then marched to the Mexican barracks where the last arrived about eleven o'clock that night.¹

Soon after arriving at the barracks, Crabb was separated from his followers and was not again allowed to have any conversation with them. About one hour after midnight, a sergeant made his appearance before the prisoners and informed them that they were all to be shot at sunrise. And this sentence was accordingly carried out—only one person, a boy named Charles E. Evans about fifteen years of age, being spared. This boy was taken by Gabilondo to Altar; but two days afterwards he returned to Cavorca and saw the bodies of the Americans scattered over the burying ground. There were fifty-eight of them, including those of the wounded for whom Gabilondo had with

¹ Ex. Doc. 35 Con. 1 Sess. H., No. 64, 66, 67.

ghastly facetiousness agreed to furnish a good surgeon. They had all been stripped of every particle of clothing and lay exposed, without burial and much mutilated by coyotes and swine. He heard some of the Mexicans boast that their hogs would fatten on Yankee carcasses. He himself found that the stench from the bodies was revolting and that the presence of the hogs, on account of their feeding on the bodies, was intolerable. He also said that he had been shown gold that had been taken from the teeth of some of the murdered Americans, and finally that the severed head of Crabb had been exhibited to him. This head, he affirmed, was lifted by the hair from an earthen jar filled with mescal.¹

The loss of the Americans at Cavorca previous to the executions was said to have been twenty-five and that of the Mexicans about two hundred. The only favor allowed the condemned was to permit Crabb to write to his wife. When the executions commenced, the prisoners were marched out in squads of from five to ten; but it was said that the bearing of the Americans, when placed squarely in front of the Mexicans, was so imposing that the latter faltered and shot either too high or too low; and that for this reason the remainder of the condemned, including Crabb, were placed with their backs to the executioners. It was said that Crabb, when his turn to be executed came, was tied with his face to a post; that a hundred balls were fired into his body, and that he was then decapitated and his head exposed. Soon afterwards a party of some sixteen or twenty men, whom Crabb had left near Sonoita when he marched to Cavorca, were also massacred, so that the boy Evans remained the only survivor of the ill-starred expedition.²

On April 28, 1857, John Forsyth, envoy extraordinary and minister plenipotentiary from the United States to Mexico, in a communication to his government, characterized the movements of Crabb and his party as a filibustering expedition from California. He also announced the arrest of two American citizens, Augustin Ainsa and Rasey Biven, brothers-in-law of Crabb, and the speedy release of the latter in default of any evidence to

¹ Ex. Doc. 35 Con. 1 Sess. H., No. 64, 67, 68.

² Ex. Doc. 35 Con. 1 Sess. H., No. 64, 39-42.

detain him. On May 7, 1857, he announced the summary execution of Crabb and his party and the impossibility, on account of the unseemly haste of the executions, for him to interfere. On May 30, 1857, he addressed a communication to the Mexican minister of relations, in which he claimed that Crabb and his party were *prima facie* emigrants seeking homes in Sonora by invitation of influential citizens and in strict accordance with Mexican colonization law; that Mexico had notice and could not plead surprise; that Crabb and his party, so far as fighting was concerned, acted only in self-defense; that their final surrender and the acceptance of it by the Mexicans entitled them to a full, fair and impartial trial and that, passing over the execution of Crabb and his immediate associates, the subsequent slaughter of the party near Sonoita was an unmitigated and inexcusable murder. Even if Crabb and his party were pirates, Forsyth continued, they were entitled to a fair trial and ought not to have been put to death on the spot; and he hoped that, though the Mexican government might be legally and nationally responsible for the murder, it had not directly ordered it. And he concluded his communication with the observation that "bloody facts," like those in Sonora, "must frustrate and emasculate the best diplomatic efforts to establish an era of good feeling, good offices and mutual friendship and confidence between the people and the governments of our two republics."¹

In view of such language, deliberately put forth by an envoy extraordinary and minister plenipotentiary, the Mexican government probably saw at once that there was nothing to fear from an administration that could be satisfied with such representations. Nor did the administration ever manifest any disposition to pursue the subject further. Whatever might be said in favor of Crabb and the sincerity of his pretension that he was an honest emigrant having nothing further in contemplation than peaceful settlement in Sonora, it is, however, very certain that no one believed in the claim at the time and nothing has since occurred to justify any change of belief. Without reference to the language used by the envoy extraordinary and minister plenipotentiary, which perhaps the administration wished for-

¹ Ex. Doc. 35 Con. 1 Sess. H., No. 64, 35-43.

gotten as soon as possible, there seems to have really been nothing in the action of the Mexican authorities towards Crabb and his party, against which the administration at Washington could properly complain. It is true the Mexicans were brutal, as brutal perhaps as it was possible to be; but on the other hand Crabb and his party were undoubtedly filibusters and as such they were outlaws, enemies of all the world and not entitled to the protection of any government, and least of all to that of any government of law like that of the United States.

CHAPTER VIII.

DISCOVERY OF HUMBOLDT BAY.

SOON after the first great lines of travel to California were opened interest began to be taken for various reasons in the more remote and still unknown parts of the country; and several very important discoveries were made. One, and perhaps the most important of these, was that of Humboldt bay. This event took place on December 20, 1849; and the narrative of the circumstances attending it presents a tale of pioneer pluck and endurance rarely if ever excelled and scarcely ever equaled in any part of the world.

Humboldt bay, the pride of the northwestern coast of California, is a spacious body of comparatively deep water, some twelve miles long by from two to five miles wide, about twenty miles north of Cape Mendocino. It is formed by two sandy peninsulas, which separate it from the main ocean, leaving an entrance of about a quarter of a mile wide with a depth of about eighteen feet at low tide. It is a very handsome bay, with its shores, except where cleared for agricultural or building purposes, thickly covered with magnificent redwood and pine timber down to the water's edge.¹ Its discoverers, or at least those that made it known to civilized man and are alone entitled to be called its discoverers, were none of the various navigators, who from the time of Cabrillo in 1542 for upwards of three hundred years sailed along the coast between Cape Mendocino and Cape Blanco; but a party of land adventurers, who were seeking a convenient mode of access to what were known as the Trinity river mines. They approached it, not from the north or from the south, but over the rough and almost untraversable mountains to the east; and it thus happened that like San Francisco

¹ See Cone's Two Years in California, 115.

bay, strange as it may appear, it was discovered not by sailors but by mountain travelers, who reached it only after a long and difficult journey through a trackless and before-untrodden wilderness.

The first white men to know anything at all about the interior of the northwest portion of the state were the trappers of the Hudson's Bay Company. In the prosecution of their search for furs, they occasionally visited the region of Mount Shasta, but none of them remained or left much sign of their having been there. In 1845, Major Pearson B. Reading, who had come to California in 1843, led a trapping expedition into the same region and in the course of his wanderings discovered a large stream flowing westwardly. Supposing from its direction that it emptied into the port of Trinidad, which had been discovered by Bruno de Heceta and Juan Francisco de la Bodega y Quadra in 1775 and was prominently marked down on the old Spanish charts and maps, he named it the Trinity river. As a matter of fact, this stream, large as it was, was only a branch of the Klamath river, which makes an extraordinarily acute angle at the junction of the Trinity and running thence northwesterly empties into the ocean more than thirty miles north of Trinidad.

In 1848, soon after the discovery of gold on the American river, Reading, who in the meanwhile had settled in the upper Sacramento valley, took occasion, as has been already stated, to visit Coloma for the purpose of examining the new mines. As soon as he cast his eyes upon the locality where gold had been found, he remarked that he had seen places having similar indications on the upper waters of the Trinity river, which he had discovered and named in 1845. Upon his return home he organized a party and went on a prospecting expedition to the scenes of his former trapping experiences on the Trinity. Reaching that stream, he traveled along its course for a considerable distance and, upon careful examination of its bed and banks, discovered the gold-bearing gravel bars, which soon afterwards made it famous. Returning a few months later to the Sacramento valley he spread abroad an account of his discoveries; and the consequence was that in the course of a short time there were mining camps established at various points along

the streams throughout the entire region previously examined by him.

One of the great troubles with the Trinity river miners was the difficulty of obtaining supplies. Everything in the way of clothing and provisions, excepting buckskin and wild game, had to be carried over rough mountain trails from the Sacramento valley. In consequence of this drawback, though there was gold enough in the streams, the miners were in miserable circumstances; and towards the end of 1849 nearly all of them were ready for almost any enterprise or adventure that gave any promise of ameliorating their condition. Among the most dissatisfied and restless were the miners of Rich Bar, as it was called, on the upper Trinity. There were about forty of them—all strong, hardy and adventurous men. They had frequent discussions about doing something to better their affairs; and in all their conferences the general opinion seems to have been entertained that if communication could be opened with some point on the coast west of them, vessels could be sent thither from San Francisco, and the expense and trouble of procuring supplies would be materially lessened. With a view of ascertaining whether such a communication were practicable, they made inquiries of the neighboring Indians and were informed by some of them, who pretended to have visited the ocean, not only that the coast was not over eight days' journey distant, but that next it was a large and beautiful bay surrounded by extensive and fertile grounds. This reported bay, they supposed likely, would prove to be the Trinity port of the Spanish navigators; but, whether so or not, the Rich Bar miners, seeing a prospect of forming a communication with the ocean, determined to do so; and at a public meeting held in October a party of twenty-four of them was organized to explore the country westward from where they were to the Pacific. The day fixed for the start was November 5, 1849. It was late in the season; snow had already fallen, and there was every indication of a rough winter. When the time came, it was raining hard. On account of the inclemency of the weather and the unfavorable prospects, two Indian guides who had been engaged refused to travel; and, for the same reasons and perhaps also because they had changed

their minds in regard to the expedition, sixteen of the twenty-four, who had agreed to go, declined to do so and withdrew. This left only eight; but they were eight of the most resolute men in California. Of these the master spirit and the most active and effective in organizing the expedition was Dr. Josiah Gregg, a physician by profession, formerly of Missouri, who, on account of several journeys to New Mexico and the authorship of a valuable book on the subject called "Commerce of the Prairies," was generally known as "Santa Fé Gregg." He was a man of extensive information, varied resources and firm character and well calculated, both by natural and acquired qualifications, to take a leading part in pioneer enterprises. His associates were Thomas Sebring of Illinois, David A. Buck of New York, J. B. Truesdell of Oregon, Charles C. Southard of Massachusetts, Isaac Wilson of Missouri, L. K. Wood of Kentucky and a Mr. Van Duzen.

These eight men started from Rich Bar, as had been arranged, on November 5, 1849. They had horses to ride, pack mules to carry their camping outfit, and provisions, consisting of flour, pork and beans, sufficient as was supposed for ten days. Immediately in front of them and on both sides to the right and left, as they set forth, rose high and rough mountains, furrowed with deep and rocky gorges and precipitous cañons. The first day's journey was up the easterly side of the highest of these mountains and over ground completely saturated with the rain, which still continued to fall. The ascent was therefore difficult and at times dangerous. Before reaching the top, snow took the place of slippery mud; but this did not improve the traveling. On the contrary it obliterated such imperfect natural trails as there were and compelled the explorers to grope their way, floundering among the drifts, up the icy inclines, having no guide except the summit of the mountain in advance. At length, having reached the summit and looking towards the west, they saw before them only a wild and rugged country, consisting of snow-crested mountains, extending as far as the eye could reach. The descent of the first mountain only led to the ascent of a second one quite as long, tedious, difficult and dangerous; and so the way continued day after day over a series of ranges and ridges of the

steepest and roughest character in that very rugged quarter of the country. On the evening of the sixth day after leaving Rich Bar they came to a large stream, which proved to be what is now known as the South Fork of Trinity river. This they followed until they came to its junction with the main Trinity, at which point, finding that the latter ran in a north-northwesterly direction, and their object being to proceed westerly and reach tide water as soon as possible, they crossed the South Fork and climbed a steep bank on the westerly side.

On the top of the bank they suddenly came upon an Indian rancheria, the inhabitants of which appeared to have never before seen a white man; and the greatest consternation ensued among them at the sight of their strange visitors. Men, women and children all took to flight, some seeking hiding-places among the rocks and thickets and others rushing for the river and plunging into its turbulent waters. The whites attempted, as well as they could by signs, to indicate that they intended no harm and tried to induce the frightened Indians to return. In this, however, they failed—the fugitives being apparently too much alarmed. But that evening about sundown, just after the whites had camped, there came marching upon them about eighty savage warriors, painted like so many demons and armed and prepared for battle. The whites found themselves in a very perilous predicament. Every rifle and pistol in the company had been wetted in crossing the river or by the rain and was temporarily useless. Their only hope of safety was in assuming a bold and fearless attitude. They were equal to the occasion. Making signs that the Indians should halt, two of the party advanced towards them with a quantity of beads and fancy articles, with which they fortunately succeeded in creating a favorable impression; and in a short time a sort of conference took place. The spokesmen of the Indians represented, as well as they could by signs, that their people were very numerous and that the whites were entirely in their power and at their mercy. The whites, on the other hand, represented in the same manner that one of their guns could kill as many Indians at a single shot as could stand up in a row, one behind the other. The Indians, in proof of what they said for themselves, pointed to their numbers; but

they did not appear to be satisfied about the assertions of the whites and demanded an exhibition of the power of their wonderful instruments. As, however, the guns were all wet and nothing could be accomplished with them in that condition, the whites were obliged to procure a postponement of the proposed exhibition until the next day; and in the meanwhile they managed to persuade the painted braves to retire for the night. Early the next morning the whites, though they had dried and cleaned their rifles, endeavored to evade the red men by getting the start of them. But in this they had no success. A large number of the Indians, as if too anxious to wait any longer or too suspicious to trust the white men, were already on the ground. Under the circumstances, as it might be more hazardous to refuse to satisfy the natives than to run the risk of failing to impress them by a shot, one of the whites stepped forward with his rifle and fired at a small piece of paper that had been fastened to a tree some sixty yards distant. The well-aimed ball struck the center of the mark and imbedded itself deeply in the trunk of the tree. The Indians were terror-stricken. They had not been told about a noise from the gun and did not expect any; and the report, with its accompanying fire and smoke, much more than the perforation of the paper or hole in the tree, inspired them with profound awe. From that moment they manifested every disposition to assist and further the desires of the whites and advised them, if they wished to reach the ocean, to travel as nearly west as possible and avoid the fierce and warlike tribes along the course of the rivers.

Gregg and his companions, having thus succeeded so well in their first adventure with a large number of the savages—who it is to be noted were a very different race from the abject Diggers of middle and southern California—pushed off westerly in pursuit of their search. But in two or three days' further time they found that their provisions were exhausted. Flour, beans and pork were all gone. On the evening of November 13, they turned into their blankets supperless. By this time they had struck the almost impenetrable forest, which lines the northern coast; and all the next day they picked their way through dense timber. In the evening, having reached a little opening in the

woods, they pitched their camp; but, suffering as they were from the pangs of hunger, they could hardly sleep; and the next morning, with the first streaks of light, having determined to search for game before proceeding further, they all started out on the hunt. Fortunately they succeeded in finding and killing several deer, portions of which, after satisfying their hunger, they cured for future use. Several days were spent in this work when, packing their animals and themselves proceeding on foot, they again pushed on. The way seemed to become more difficult as they advanced. In the course of a few days further, all their cured venison was gone; and the pangs of hunger were felt severer than before. To add to their distress, the grass which hitherto had been abundant entirely disappeared; and their animals suffered from want of food as well as themselves. Nothing could be obtained for them but leaves, and these could only be procured by cutting down tall trees. Two of the horses gave out and had to be left. It was at this stage that affairs looked darkest. Hemmed in apparently with almost endless forests too thick and grassless for game, their animals given out, and starvation seemingly staring them in the face, the prospect was gloomy indeed. But just at this point, one of those happy mutations of fortune occurred, which sometimes make the story of real life read like a romance. A very few miles further on, as they were struggling along through the thick forest, they suddenly reached a mountain prairie, sheltered from the wind and cold, where there was abundance of grass and game. Here they stayed three days, recuperating themselves and their animals and curing more meat.

Again they took up their march westward. In another week, the meat last cured gave out; and again the gnawings of hunger were felt. But still pushing on, with the energy of a forlorn hope, they finally reached another opening in the forest; and, ascending a slight rocky eminence which overlooked the country westward of it, they were astonished to see, not only deer but a band of elks feeding at no great distance. Without waiting to pitch camp, they determined to attack the elks and accordingly separated, each one taking a different direction in order to surround them. In less than half an hour after thus separating,

Wood heard a rifle-shot, quickly followed by two more. Judging from the direction of the sound that they had been fired by Van Duzen, he ran forward to see what had been the occasion of the repeated shots and, if necessary, to assist his companion. He had, however, not gone far when he saw Van Duzen reloading his rifle as rapidly as he could. In front of him were five grizzly bears—two dead; one with its back broken pawing the ground in its death struggle, and the other two ferociously making for the bold hunter, who had disturbed them. As Wood approached, Van Duzen cautioned him to keep away; but, instead of doing so, Wood ventured a shot and succeeded in bringing one of the remaining bears to the ground; and a very few minutes afterwards Wilson, who had likewise been attracted by the firing, came up from the other side and sent a ball through the heart of the last bear. It is almost unnecessary to add that there was feasting on bear meat that night, supplemented by venison brought in by others of the party.

On the scene of this remarkable hunt the explorers remained another five days, by the end of which time they had cured all the meat they could carry. They then started on again. Up to this time their progress had been anything but fast—the distance traveled not exceeding an average of seven miles per day. The reason of this was in part the thickness of the timber; but principally the roughness of the ground, consisting as has been stated of a succession of mountain ridges running parallel with the coast. But now the character of the country changed. While the mountain ridges became less high and abrupt, the timber became denser and denser. No one, who has not been amongst them, can imagine the difficulty of getting through the northern redwood forests. So luxurious was the growth of the giant trees, so interminable the barriers of fallen timber, so tangled and interwoven the dense undergrowth, that it was impossible, even with the utmost exertions, to accomplish more than two miles a day. There was no trail; and the quantities of fallen timber encumbered the ground to such an extent—the logs often lying piled upon one another many deep—that to advance it was necessary to literally cut the way through. To go around such places was as impossible as to climb over them without cutting. The only way

was to send two men ahead with axes, who would, as occasion required, chop into and slab off enough of a log to make a sort of steps and platform by means of which the animals were forced up on one side of the larger obstructions and forced down on the other. In some instances log after log crosswise had to be surmounted in this way; in others a large log, lying in the proper direction, would afford a path on its rough bark lengthwise and enable them to advance several hundred feet at a time.

But at length, on the evening of the third day after leaving what they called their "bear camp," upon reaching a slight rise in the forest, the ears of the travelers were greeted with the welcome sound of the ocean surf. It seemed to be distant; but it was unmistakable. The next morning Van Duzen and Wilson volunteered to go on in advance and mark out the best route for the animals. This being agreed to, they started off; and, after being gone all day, they returned at night with information that they had reached the ocean shore not more than six miles off. The next morning, with light hearts and buoyant spirits, the travelers were ready to resume their journey. But the difficulties of getting the animals through what remained of the forest tangle were even greater than before. For three days they labored. Fatigue and want of food since leaving bear camp had reduced the poor brutes to the last extremity. Three died; and the remainder were so weak that the least obstacle would cause them to fall; and it required much time and labor to get them on their feet again. But finally, suddenly emerging from the vast and dismal wilderness of woods, the explorers stood upon the brink of the ocean. It was the first sight most of them ever had of tide water; and as the long swells, that started among coral banks and spice islands of the East Indies, came rolling in over the white sands and splashing in wreaths of foam among the rocks, without considering how they were to return to civilization, they regarded the end of their journey reached and thought themselves repaid for all their sufferings and struggles.

The point at which Gregg and his companions thus reached the sea was near the mouth of a small stream now known as Little river. From that place the party advanced northward along the coast for about eleven miles, when a lagoon arrested

their progress. Finding that to go further northward, it would be necessary to strike off into the interior and thus again encounter the dreaded redwood forests, they determined to turn around and go southward with the ulterior object of proceeding in that direction, if possible, all the way to San Francisco. Accordingly retracing their steps for eight miles, they camped upon a headland, which they had passed on their way northward and to which they gave the name of "Gregg's Point." This proved to be the same spot which had been discovered by Heceta and Bodega in 1775 and which had been named by them and is still known as Trinidad.

There had, perhaps, never been any very great harmony between the different members of the exploring party; but up to the time they reached the ocean the terrible straits, through which they passed, kept them together and secured general co-operation. As soon, however, as the ocean—the supposed goal of their efforts—was gained, dissatisfaction and discontent, which had been accumulating for some time, broke out into quarrel; and an open disruption occurred. One of the first manifestations of the depth of this feeling was near Trinidad, where in crossing a deep gulch two of Gregg's mules mired. He called for assistance; but no one would aid him. They all declared that from that time forward every man should look out for himself. Wood even went so far as to make an agreement with an Indian, who lived close at hand, to remain in his rancheria and furnish elk meat as compensation for his lodging. But, notwithstanding the general disaffection, it was evident to several of the party, on sober second thought, that their only safety was to remain and travel together. Wood for a time refused to go. When asked the reason of his refusal, he disclosed his agreement to remain with the Indians. To this the others replied that to remain alone was to abandon himself to certain destruction, while by decreasing the number and strength of the party it would expose all to danger. Wood rejoined that he had no horse; that he was worn out and unable to travel any further, and that he would rather be killed by the Indians than again run the risk of dying of starvation and fatigue. Upon this Truesdell, who had two animals left, offered to sell one to Wood on condition that the

latter would remain with the party; and after considerable controversy Truesdell's offer was accepted; and all the explorers, Wood with them, started southward again.

Passing down along the coast they crossed the small stream, called Little river, where they had first struck the ocean, and a few miles further on reached a large stream, which at the time was running with its banks full, swollen by heavy rains. The size of this river specially attracted Gregg's attention; and he wished to ascertain the latitude of its mouth. With this object in view he requested the remainder of the company to wait for him. This, however, they refused to do. Regardless of their refusal, he proceeded to unpack his instruments and prepare to take an observation, while the others crossed the animals over; and then, placing themselves and the baggage in canoes, they pushed off from the bank. Gregg at this, being convinced that he would be left behind, hastily caught up his instruments and ran for the canoes and only reached them by rushing into the water. He was at first so angry and excited that he could scarcely speak; but, upon arriving on the opposite shore, he fully opened the vials of his wrath and poured forth a torrent of bitter denunciations. The others replied. One or two of the most violent spoke of throwing the old doctor and his instruments into the river; and for a while the quarrel threatened to pass from tragic words to tragic deeds. But finally wiser counsels prevailed; the difficulty at least temporarily was smoothed over; and the party started ahead again. It was on account of this quarrel and its violent character that the stream where it occurred was called by the party Mad river—a name which it bears to this day.

The next camp was made among sand hills about a mile back from the ocean and a few miles south of Mad river. It was not a favorable situation to stop in; but it was too late to advance further. Immediately after camping, Buck and Wood started out in search of drinking water. After going a short distance together they separated, Wood going off to the right and Buck to the left. Before long Wood came to a slough containing water not very agreeable to the taste but which he thought as fresh as any he would be likely to find, and he accordingly filled his kettle and returned to camp. Buck remained out longer but

finally came into camp with another kettle of water, which he placed on the ground without saying anything. Dr. Gregg, not relishing the water Wood had brought, was the first to taste that in Buck's kettle. As soon as it passed his lips, he spat it out and, turning to Buck, asked, "Where did you get that water?" Buck answered, "About half a mile from here." Gregg replied, "You certainly did not get it from the ocean. We would like to know where you did get it." Buck rejoined, "I dipped it out of a bay of smooth water." The mention of a bay—one of the main objects for which the party had undertaken so perilous a journey, though it had been almost forgotten during the recent troubles—threw them all into excitement. They pressed Buck with questions; but all the explanation they could get from him was that he had certainly dipped the water out of a large and smooth bay though, on account of the darkness he could not tell its character or extent.

All this took place on the evening of December 20, 1849. At daylight the next morning the camp was moved over to a strip of sand beach on the bay, which had been discovered by Buck on the previous evening. As the explorers observed its extent and smoothness, they were satisfied it was the large bay spoken of by the Indians on the upper Trinity and named it "Trinity Bay"—a name which, however, was soon afterwards changed to the present one of "Humboldt Bay." And thus it was that the famous old year 1849, the date of so much else of interest in the history of California, was also the date of the discovery of this magnificent sheet of water. It is said that some of the old fur-hunting sailors had previously seen it; but if they did, they did not make it known to the world. Icelandic navigators visited America long before the fifteenth century; but their knowledge did not detract from the glory of Columbus' discovery. So though fur-hunters may have visited Humboldt bay, the world was none the wiser for their visit, and their knowledge does not lessen the credit due to Gregg and his companions.

The spot on which the explorers made their first camp on Humboldt bay was a part of the sandy projection known as the peninsula constituting the northerly tongue of land between the ocean on one side and the bay on the other. There they

remained during the day. They were visited while there by a number of Indians, who were exceedingly curious to see white men. From them they learned, as well as they could understand the signs, that they could not proceed southward along the ocean, but would have to go around the bay. Buck, to satisfy himself, went down to the strait leading from the bay to the ocean and upon his return confirmed the report of the Indians and said it was impossible to cross it. The next morning, accordingly, the party started off northward and around the bay, keeping as close to it as the many small sloughs and creeks would permit. On the evening of the second day, after a laborious march through brush and swampy ground, sometimes wading and sometimes swimming, they reached the plateau on which the town of Arcata is situated. The next day, being December 25, an elk's head was baked in the ashes for a Christmas feast. On December 26, the party, following an Indian trail through the woods back of the present city of Eureka, struck the bay again at the point where the town of Bucksport was afterwards located.

There had been an intention on the part of the explorers, in originally organizing the expedition, if they should succeed in finding the bay spoken of by the Indians and if its situation should prove advantageous, to take up land upon its shore and lay out a town. But upon actually reaching the bay, which proved much more favorable than any of them could have anticipated, their deplorable condition with provisions uncertain, strength impaired, ammunition nearly gone and good feeling entirely destroyed, compelled them to abandon all thought of remaining and to make all possible dispatch to reach the nearest white settlements. They therefore resolved to travel as rapidly as they could down the coast towards San Francisco; and, after leaving the southern point of Humboldt bay, they struck over towards the ocean and traveled near the beach. It was raining almost incessantly and their progress was difficult and slow. On the third day after leaving the bay they saw in front of them a river larger than any they had passed. As they approached its bank they came across two very old Indians, who upon beholding them fell to the ground as if they had been shot.

The explorers dismounted and, giving the Indians to understand that they were safe, made them rise. It was then seen that the old men were loaded with eels, which they said by signs had been taken from the river. The explorers, being ravenously hungry, helped themselves to the eels, a species of lampreys, for which they paid in beads and small pieces of iron. They then induced the Indians to ferry them across the stream in canoes, swimming the animals; and, pitching their camp on the southern bank, they remained there several days. The large river, on account of the eels upon which they feasted while there, they named Eel river and a tributary, which joined it on the northern side just above where they crossed, they named Van Duzen's Fork—names which those streams still bear.

At the camp near the mouth of Eel river, another quarrel occurred, which led to a separation of the party. Gregg, Southard, Truesdell and Van Duzen insisted upon following the coast southward to the nearest settlements they might strike; while Buck, Sebring, Wilson and Wood insisted upon following up Eel river as far as they could go and then striking southward for the settlements. Neither side would yield to the other. After several attempts at accommodation had proved unsuccessful and every hope of reconciliation had to be given up, the Buck faction moved off and started on their journey up the south bank of the river. On the day after leaving the coast, a severe snow-storm came on, which in a short time obliterated every sign of a trail and hid from view every landmark. Being unable to go on, they were compelled to remain where they had camped, almost dying with exposure and hunger. Until the snow became too deep, the mules were able to paw through it and obtain grass enough to prevent starvation, while their human fellow sufferers managed to kill a small deer, on the flesh of which carefully saved and stingily doled out they sustained life. It was five days before the snow had melted off sufficiently to allow them to proceed on their journey, by which time there was nothing left of the deer except the skin. Weak and emaciated they started on, continuing their course up the river, sometimes following elk trails, at other times cutting their way through chaparral with their axes. For a day or two after thus starting ahead again, though their

animals found grass, all they themselves had to subsist on was a few acorns and the deer skin, which they cut into small pieces and after boiling drank the water and chewed the scraps.

On the second day after leaving snow-camp they observed eight grizzly bears in a little open space near the foot of a ravine. Wood and Wilson resolved to attack them. It was arranged that Wood should advance as close as possible, fire at the nearest bear and then seek the most available tree for safety, while Wilson was to follow, also fire if he had an opportunity and also take to a tree. With this understanding Wood advanced to within fifty yards of the first bear and, leveling his rifle, fired at it. The shot seemed fatal, for the grizzly fell biting and tearing the earth as though in the agonies of death and at length lay still. About the same time Wilson had got within range of one of the other bears and, with a well-directed shot, laid it out dead. At the reports of the rifles, five of the grizzlies retreated up the ravine; two were lying stretched out on the ground, but another yet remained which showed no disposition to retreat. On the contrary, sitting back on its haunches, with its body otherwise erect, it turned its glaring eyes first on its fallen kindred and then on the bold hunters who had thus dared to make the attack. As it evidently meant mischief, Wilson dropped his weapon and took to his tree. Wood was in the meanwhile endeavoring to get a ball down the barrel of his gun, when the old bear made a rush for him. Being near a small buckeye, he mounted into its branches with his weapon and made another effort to force the ball down. This, however, he was unable to do; and, the bear having reached the tree, he was forced to use the gun as a club to beat it off. He was so engaged when, to his utter surprise and horror, the bear, which he had previously shot and which he had supposed he had killed, rose to its feet and also rushed for him. He might possibly have kept off the first bear; but nothing could resist the fury of the wounded one. The first spring it made against the tree broke it down; and, as Wood was thrown out, both bears jumped for him. Before either could strike, however, he gained his feet and ran down the ravine towards another small tree some thirty yards distant. The wounded bear pursued and Wood could distinctly feel its breath,

as it grabbed for him at every jump. Reaching the tree, he seized hold of the trunk and swung his body around it, while the bear, carried forward by its own momentum, plunged headlong twenty yards further before it could stop.

Wood exerted all his energies to climb the tree; but, before he was able to get out of reach, the unwounded bear seized him by the ankle and pulled him down. As he fell, the wounded bear, which by this time had returned, made a grab for his face. He dodged and it caught him by the left shoulder. The moments that followed may be better imagined than described. One bear having him by the ankle and the other by the shoulder, the two pulled against each other as if to tear him to pieces. In this way they stripped him of his clothes, inflicted many wounds with their claws and dislocated his hip. But they seemed unwilling to take hold of his naked flesh. As soon as they had divested him of clothing, they both left him—the unwounded bear disappearing in the brush. The wounded bear went about a hundred yards up the ravine and then deliberately sat down and looked back. Wood lay perfectly still for a few moments and then ventured to make a slight movement; but no sooner had he done so than the bear was upon him again, roaring furiously. It placed its nose violently against his side and then, raising its head, gave vent to frightful howls. Being aware that his only chance now was to remain perfectly quiet, Wood, with an extraordinary effort, managed to do so; and the bear, after watching him for a few minutes and seeing no further movement, moved off again.

Supposing the animal gone, Wood thought it prudent to put himself beyond its reach if it should think of coming back. He was not aware of the extent of his injuries and, in attempting to rise, found that he could not use his right leg. He was therefore compelled to drag himself along, which he did very slowly, but at last managed to reach the little tree, from which he had been pulled, and with a mighty effort succeeded in climbing to a limb eight or ten feet above the ground. As he did so Wilson, who had left his own tree, came up. At this the bear, which had not gone far and had apparently been watching him instead of Wood, made a furious rush forward. Wood shouted to

Wilson to take to a neighboring tree and Wilson did so just in time to get out of reach. The two trees being not far apart, the ferocious animal seated itself between them, trying to keep its eyes on both men at the same time and uttering an angry growl if either of them attempted to move. Neither having a weapon, all they could do was to remain quiet and avoid as much as possible provoking the bear, which at length, to their great relief, left the spot and, after looking back several times, finally disappeared in the distance.

On account of Wood's wounds and especially his broken thigh, the party were compelled to remain twelve days where they were, during which time they subsisted on the meat of the grizzly killed by Wilson. After waiting that long, and Wood's condition being in no way improved, it became a question what to do with him. He himself suggested that he might be left at an Indian rancheria, which was not far distant; but the Indians refused to take care of him. He next suggested that it would save trouble if his companions should put an end to his sufferings at once. But this of course was not to be thought of. They told him they could not stay any longer where they were, and he must stand the pain of being carried along the best way they could. He replied that he was content; but, if he gave out, they should dispose of him as they saw fit; and, if he died, they need not stop to bury him. He was then lifted on one of the animals and tied on with cords—the fearful agony he endured making him as weak and helpless as a child. They then started ahead again. Fortunately they had better weather and more abundant grass and game than before; and, by making short stages and frequent rests, finally striking over from Eel river to Russian river and following the valley of the latter down past the present sites of Ukiah, Cloverdale and Healdsburg, they in about ten days more reached the house of Mrs. Mark West, some six or eight miles north of Santa Rosa. There Wood remained for six weeks, by the end of which time he was sufficiently recovered to go to friends in San Francisco.

Still more sad was the fate of the other half of the expedition, consisting of Gregg, Southard, Truesdell and Van Duzen, who had attempted to follow the ocean coast south from the mouth

of Eel river. They had gone but a short distance in that direction when they found their progress stopped by deep gulches and steep rocky points, all more or less encumbered with snows. They were obliged, on account of the difficulties thus met with and their weak condition of bodily strength, to abandon their project of passing southward and change their course for one which would lead them to the Sacramento valley. This brought them into the same kind of obstructions they had encountered on the way out. But they had not the same means to overcome them that they had had before. Their ammunition gave out and absolute want of food was the result. The unconquerable will still remained; but exhausted nature could not keep up. One day, after long privation, while still pressing forward, fighting against fate and almost within reach of succor, Gregg, the brave old leader, fell from his animal and expired without speaking. He died of absolute starvation. The survivors, Southard, Truesdell and Van Duzen, managed to scrape a shallow hole in the ground, in which they placed the body and covered it with rocks. They then dragged themselves forward on their melancholy journey and finally, after untold sufferings, reached the Sacramento valley about the same time the other party reached Mark West.¹

Within a few months after Gregg and his party started from Rich Bar on the upper Trinity river in search of a port on the ocean coast to the west of them, a number of vessels started from San Francisco for the same purpose. None of the adventurers connected with either one of these vessels appears to have known anything about Gregg's expedition; nor had any of them any intimation or idea of a magnificent bay to be discovered. They were simply aware of the fact that a port on the northwest coast was needed for communication with the new mining camps on the Trinity river and that, with such a port and easy communication thence to the mines, they could do a thriving business. They also knew that a sort of port in that neighborhood, called Trinidad, had been discovered by the

¹Letters of L. K. Wood in the Humboldt Times, substantially copied in "Indian Wars of the Northwest," by A. J. Bledsoe, San Francisco, 1885, 75-102.

Spaniards in 1775, and they were of opinion that either that port or some other on the unexplored coast north of Cape Mendocino would afford them what they were in search of. Accordingly in December, 1849, the schooner Cameo sailed from San Francisco with the object of examining the port of Trinidad; but it soon afterwards returned without having accomplished anything. In the early spring of 1850, however, as the fame of the Trinity mines continued to spread and the necessity of a port and easy communication seemed to become more and more apparent, the Cameo sailed again, followed in quick succession by more than a dozen other vessels, among which were the schooners Laura Virginia, James K. Whiting, General Morgan and J. M. Ryerson.

The Laura Virginia was a staunch Baltimore-built craft, of one hundred and twenty tons burden, which had come out from New York the previous spring. It had recently been chartered by an association of adventurers, which from the name of the vessel called itself the Laura Virginia Association, some of whose trustees with Captain Joseph L. Folsom at their head resided in San Francisco, while the others sailed with the vessel. It left San Francisco with about fifty persons on board and a cargo of general merchandise in the latter part of March, 1850, under command of Lieutenant Douglass Ottinger of the United States revenue-cutter Frolic, who had volunteered for the service. Ottinger after sailing up past Mendocino, very close to the coast, saw the mouth of Eel river and anchored two miles off the bar. The next day three other vessels anchored near by; and a boat from one of them, the General Morgan, crossed the bar and entered the river. Ottinger thereupon, with the intention of following, launched two boats, one commanded by himself and the other by his first officer Albert Swain. Swain's boat which was in advance capsized in attempting to cross the breakers, whereupon Ottinger put back to the schooner and sent his second officer, Hans H. Buhne, with a picked crew to rescue Swain and his men, who were clinging to the bottom of their boat. Buhne, a Dane by birth, then twenty-eight years of age, who proved to be a man of extraordinary nerve and skill, willingly undertook the task and courageously plunging with his boat into the breakers succeeded in rescuing Swain and three

men—only one being drowned. Ottinger then, abandoning the exploration of Eel river, sailed further north and in the course of ten or twelve miles distinctly saw the waters of what looked like a large bay, but he could see no entrance to it and passed on to Trinidad and thence fifty or sixty miles further north to what is now Crescent City. There he found the Cameo at anchor and another vessel, called the Paragon, stranded on the beach. Remaining there two days, he turned around and, while running down the coast, noticed a current of apparently fresh water making out from the land and upon examination ascertained that it came from a large river. Buhne was instructed to take a boat and sound the bar but not attempt a crossing. He did as directed and thus brought back the first measurements of the mouth of the Klamath river.

Upon the arrival of the Laura Virginia at Trinidad on the way northward, it had been decided to leave a party there under the leadership of Elias H. Howard, one of the trustees, with instructions to explore the coast line southward to the supposed bay seen from the deck of the vessel. This party, consisting of six men, was to march on foot; and it was agreed that, about the time they should return to Trinidad, the schooner was to meet them there and take them up. Howard and his party at once proceeded southward, had some difficulty in crossing Mad river but at length managed it, and keeping on along the coast finally saw and reached and examined as well as they could from the land the entrance to the bay. Having thus accomplished their mission they started back to Trinidad on the following morning; and the next day the schooner anchored there and received them on board. Upon Howard's report, it was determined that an attempt should be made to enter the place, and as a preliminary that a boat should first be sent to examine and, so to speak, feel the way. There was one man on board eminently fitted for this service, and that was Buhne; and to him it was committed. On the morning of April 9, he launched his boat with a crew of four men and, proceeding to the entrance, without hesitation crossed the bar and passed into the harbor. Landing opposite the entrance, at what is now known as Buhne's Point, he remained a few hours, when taking advantage of the turn of the tide he made his way out, sounding as he went and

finding a well-defined channel with four and a half fathoms of water. Upon his return to the schooner it was determined that another trip should be made the same day—this time with two boats, loaded with passengers, tents and provisions. Buhne led the way and by about dusk both boats had crossed the bar and entrance and landed their people on the north spit. The next morning they all crossed over to Buhne's Point, where they pitched their tents and remained three days.

On April 12 a schooner was seen off the bar; and Buhne, supposing it to be the *Laura Virginia*, went out with his boat's crew. It proved, however, to be the *James K. Whiting* sailing towards Eel river and apparently ambitious to be the first vessel to enter that stream. On account of the lateness of the hour, Buhne and his crew boarded the vessel and remained on board all night. They said nothing of where they had been or what they had seen; nor were any questions asked—it being apparently surmised that they were simply away on an excursion from their vessel. The next morning the *Whiting* was near Eel river and just in time to see its rival, the *J. M. Ryerson*, cross the bar and sail into the mouth first. Then Buhne and his men, taking to their boat again, parted company with the *Whiting* and proceeded northward. In the afternoon they were met by the *Laura Virginia*, which took them on board and then stood off to sea for the night. But the next day about noon, April 14, 1850, wind and tide being favorable and Buhne at the wheel, the *Laura Virginia* sailed into the bay and thus opened the communication with that interesting section of the state, which has been improving and growing in importance ever since. The vessel anchored near the point opposite the entrance; and the company, represented by its officers present, proceeded to take possession of sufficient land for the site of a great city. They apparently knew nothing of Gregg's visit or of the name he had given the bay; but, whether so or not, they called it Humboldt bay; and as such it has since been known. Their prospective city they also called Humboldt; but the site did not prove well chosen; and, when population began to flow in, it settled down at other points, such as Eureka, Arcata and other places, which afforded more advantages and conveniences.¹

¹See Bledsoe's Indian Wars of the Northwest, 107-118.

CHAPTER IX.

YOSEMITE.

THE next most important discovery in California of comparatively recent times was that of Yosemite valley. This event took place on March 21, 1851, in the course of an expedition against Indians on the head-waters of Merced river by Major James D. Savage and a company of the "Mariposa battalion" under his command. Savage was one of those remarkable characters, not unfrequently found upon the confines of civilization, who combined great though uncultivated strength of intellect with great though not unkindly coarseness in the conduct of life. He had come across the plains in 1846 and most of the time after his arrival in California had lived among the Indians; and he had managed in various ways to make warm friendships with them, employing a number in mining operations and driving a thriving business with all who lived in his neighborhood. One of his plans to acquire and retain his influence among the dusky people of the forest was to court and marry every daughter of a capitanejo or chief that he could become acquainted with; and by the beginning of 1850 he had succeeded in securing five of these wives, and thus become what was known as a "much-married man." He lived at that time and had a trading-post near the mouth of the South Fork of the Merced and carried on his business upon the principle of employing all the Indians who were willing to work, getting all the gold-dust they collected and scrupulously paying therefor in equal weights, ounce for ounce and pound for pound, in hardware or whisky. By these means he became a man of mark as well as of wealth and was widely known not only in his own district but throughout a large part of the state.¹

¹ Discovery of the Yosemite, &c., by Lafayette H. Bunnell, Chicago, 1880, 15.

There was one tribe of Indians, however, or rather a collection of outlaws and fugitives from various tribes, in the high mountains to the east of where Savage had his camp, that he could not, or at least did not, succeed in making his friends. They were what were afterwards called the Yosemites. Little or nothing was at that time known of them except that they were the most warlike of all the tribes in that portion of the country and were feared by all the other Indians; and nothing was known of their habitation except that it was a very rough region, difficult of access and near the summit of the Sierra. From their unknown and, because unknown, mysterious fastnesses, these mountaineers had been accustomed from time to time to descend and make raids upon the weaker tribes of the valley; and, even after the whites came in and spread along the auriferous streams of the foot-hills, they continued their incursions, in some instances confining their depredations to theft and robbery but in others going so far as to commit arson and murder. In one of these forays in the early part of 1850, a party of them attacked Savage's camp and attempted to drive him off; but he collected his friends and with fire-arms, against which the mountaineers were comparatively powerless, managed to defeat and send them back howling to their abodes among the rocks. Notwithstanding his success, however, Savage saw enough to convince him that trouble with the savages had only commenced; and, making up his mind to run no more risk than was unavoidable, he moved his trading-post from his location near the mouth of the South Fork of the Merced river to a place on Mariposa creek, twenty miles southwestwardly and near what is now known as Agua Fria.¹

Meanwhile the mountain Indians, smarting under the repulse the Yosemites had suffered and witnessing with alarm the coming on of more and more gold-miners to fill up the foot-hill country, began to combine for the purpose, by a united effort, of killing or driving off all the whites. With this object in view, they sent out emissaries among the rancherias in every direction and soon succeeded in working up a very considerable conspiracy, embracing almost all the Indians of the Sierra as far north

¹Bunnell, 15, 64.

as the Mokelumne river and as far south as the Kaweah and seriously affecting the faithfulness even of some of the valley or low-foot-hill tribes, who were counted upon by the gold-diggers as reliable friends. Of the commencement and early steps of this combination and conspiracy Savage was informed by one of his squaws; and he immediately sent word of what he had heard to the principal men in the various mining settlements which were supposed to be threatened. But they, being intent upon gold-digging, paid little or no attention to the warning; and the march of events was allowed to go on without interference from them. Those who did pay attention only manifested a disposition to find fault with Savage, alleging that he was too prone to listen to the boasts and blatant palaver of vagabond Indians, who had always been talking big, and that the threatened hostilities were only occasioned by a quarrel between him and his Indian miners, in which for ulterior purposes of his own he wished to involve all the whites. It did not take much time, however, to convince the settlers and miners of their injustice towards Savage and to show them how widespread the disaffection of the Indians really was. In a very few days news came from different quarters of numerous robberies and murders by them. In almost every direction camps and ranchos were attacked and crimes of horrid barbarity committed. Several men were overpowered and killed on the Fresno river, four or five on the upper San Joaquin and four or five others near Visalia, one of whom was said to have been flayed alive. Of these outrages, as they occurred, information was at once forwarded to Governor John McDougal and a demand made for assistance; but in the meanwhile, and before anything could be heard from the state capital, a small volunteer force of whites collected and marched against the Fresno murderers. This force unfortunately had very limited supplies and hardly any organization; so that when, after a long and toilsome march, it came up with the Indians at a point near the head-waters of the Fresno, it was worn out; and in a skirmish, that took place there, it was worsted and the result was that the Indians were rather encouraged than otherwise by the outcome of the combat.¹

¹ Bunnell, 15, 21, 24, 25.

It was found upon that occasion that the warriors in arms were about five hundred in number, consisting of representatives from the Chowchillas, Kaweahs, Yosemites and others, and that they were led by two capitanejos of ability, one of whom was José Juarez and the other José Rey. These men, immediately after the fight at Fresno, marched their forces northward and threatened the thickly settled portions of the country. Meanwhile the whites, of whom there were about one hundred, reorganized under the command of Captain John J. Kuykendall and followed the Indians to a rough, mountain region near the North Fork of the San Joaquin river. Finding them encamped there in a dense chaparral and in supposed security, Kuykendall attacked them one morning before daylight; took them by surprise; killed twenty-three including José Juarez; seriously wounded a number of others, of whom José Rey was one, and completely routed the whole camp. Savage at the time was coming up with recruits; but the fight was over before he arrived. The victory was so complete and the Indians apparently so demoralized that it was deemed unnecessary to attempt to pursue the fugitives, who had escaped into the high mountains; and the whites returned, carrying no prisoners. By this time Governor McDougal had issued a proclamation and call for volunteers; and a number of men were immediately enlisted—the impromptu organization already formed serving as a nucleus for the enrollment. The new organization, which took the name of the "Mariposa battalion," when full, consisted of two hundred mounted men and was regularly mustered into service on January 24, 1851. The volunteers furnished their own horses and equipments, and the state provided camp supplies and baggage trains; but it was understood, or at least expected, that all the expenses would in proper time be reimbursed by the general government. The officers appointed by McDougal were James D. Savage major and John J. Kuydendall, John Boling and William Dill captains, besides some others; and the special duty to which the force was assigned was the keeping in subjection of the Indian tribes on the eastern side of the San Joaquin and Tulare valleys from the Tuolumne river to the Tejon Pass. Such being the instructions, Savage, with a view of occupying a central position and holding

himself in readiness to strike in any direction in case of further depredations, fixed his head-quarters at a favorable spot about fifteen miles below the town of Mariposa.¹

There can be but little doubt that the Mariposa battalion, if it had been instructed to end the war, could have done so. And very possibly, with promptitude and rapidity of action and a little extra severity in the beginning, it might have accomplished the purpose with less cruelty and injustice on the whole than were occasioned by the delays and temporizing that were resorted to. But the United States government had seen fit to appoint what it called commissioners to settle all disputes with the aborigines; and these commissioners seemed to think that nothing like peace could be brought about except by what were ordinarily designated as "pow-wows." Under the circumstances, McDougal may perhaps have been justified in neglecting to order an immediate advance upon the Indians, who were still in armed rebellion and ought to have been crushed at once. Instead of doing so, he not only sent out an agent to hold conferences with the hostiles and thus handicapped the troops, but he also invited the United States commissioners to accompany such agent and they still further complicated matters with the necessity for more words. McDougal's agent was John Neely Johnson, one of his aids-de-camp, afterwards governor himself; and the United States commissioners were George W. Barbour, Redick McKee and Dr. Oliver M. Wozencraft, all of whom immediately proceeded to Savage's camp and commenced operations by inviting the Indians to come in and make peace.²

A few Indians came in—more probably with the object of acquiring information than for any other purpose. One of them was a capitanejo usually called Vowchester, who had served under José Rey at Fresno. He expressed himself as willing to make peace; but said that most of the friends of José Rey, who had been badly wounded in the fight on the North Fork of the San Joaquin and would doubtless die, were very angry and would not make peace on any terms; while the mountain tribes in general would not listen to any terms of accommodation unless

¹ Bunnell, 27-31.

² Journal of California Legislature, 1851, 672-677; Bunnell, 31.

guaranteed in the possession of their mountain territory. Another Indian, called Russo, who had formerly been connected with one of the missions and came last from the Tuolumne river, added that he knew the Indians of the upper waters of the Merced river and that there was no likelihood of their being willing to make peace under any circumstances. The reason for this opinion, he said, was because those Indians possessed a wonderful valley in the mountains, into which the white men could not penetrate or, if they did penetrate, out of which they could not escape. If they could get in and out, they could never follow the Indians to their hiding-places; and, if they could, the trails were so difficult and dangerous that one Indian, familiar with them, would at any time be more than a match for ten white men. Even the other mountain Indians were afraid to go to that valley; for, besides its human inhabitants, who were more powerful and much more fierce than grizzly bears, it was filled with evil spirits whose demoniac yells could at any time and at any place around its precipitous rim be heard coming up from its dark and somber depths.¹

While this talk was going on in the camp, thefts, robberies and depredations of all kinds were going on in the field. At length a number of horses and mules were stolen very close to where the commissioners had their tents; and they then decided that such Indians as could not be induced to come in and make treaties should be subdued with arms. The Mariposa battalion was thereupon ordered into line and Johnson, as the representative of the governor, made a speech to it. He said that while he could not and would not hesitate to denounce the Indians for the murders and robberies they had committed, it ought not to be forgotten that there might be circumstances which would to some extent excuse their hostilities. They undoubtedly looked upon the whites as trespassers upon their ancestral hunting grounds and felt aggrieved. They probably classed them with the Spanish invaders of Mexico, whose cruelties in civilizing and Christianizing their fathers were still fresh in their memories. He therefore counseled moderation in all cases and the avoidance of severity except in instances where it was absolutely unavoidable. But,

¹ Bunnell, 32, 33.

At this vigorous ending of the major's speech, the old chief replied, "It is useless to talk to you about who destroyed your property and killed your people. If the Chowchillas do not boast of it, they are cowards; for they led us on. I am old and you can kill me if you like; but what is the use of my lying to you. You know more than all the Indians and can beat them in war as well as in hunting. Therefore I will not lie to you. I will go and send word to my people and bring them in and talk about a treaty." Upon making this promise he was allowed to depart. The next day he came back, saying that he had sent for his people and that they would soon come in. But several days passed without any Indians making their appearance from the "deep valley" spoken of so frequently. The old chief, on being asked the reason, said that the snow was too deep for them to travel fast; and, as this happened at a time when a snow-storm was raging at Savage's camp, Tenieya's explanation was accepted as satisfactory. That night the storm ceased and the next day was bright and clear; but still Tenieya's people did not come. Under the circumstances it was determined to go after them, and the old chief was questioned as to the route to the deep valley so often mentioned and the length of time it would require to reach it. Tenieya, as soon as he heard that the whites were really going there, manifested much alarm and represented that, though the storm was over, the snows already fallen were so deep that it would be impossible for the horses to get through it and, if they did succeed in getting down into the gorge, they would certainly never get out again. But notwithstanding these representations, which were communicated to the troops, the greater the effort Tenieya made to prevent them from penetrating the wonderful cañon, the more and more they were determined to reach it.¹

It was a custom in all warlike expeditions in the mountains in those days, when it came to sending off a detachment on special service, to call for volunteers. On this occasion, accordingly, the men of the battalion were drawn up in line, the object explained to them and a call made that all who were willing to go to the villages of the Yosemites should step three paces to

¹ Bunnell, 45-47.

the front. To the surprise of Captain Boling, who had charge of the selection, when the order to advance was given, nearly every man moved forward as if on parade. The entire company had thus volunteered; but, as a camp guard was necessary, a call was next made for men who were willing to remain; and, when the next order to march was given, only a few stepped forward. At this Boling with a smile remarked that he honored the sentiment that prompted every man to volunteer for the march; but at the same time a camp guard for the protection and safe-keeping of the baggage, supplies and captives would have to be provided in some way or other, and too few had volunteered for that purpose. It had been his expectation, in representing the difficulties that might reasonably be expected on the intended expedition, that not more than enough would volunteer. But he had been mistaken and was therefore under the necessity of proposing a new method of selecting those who should go. As it was plain, from what Tenieya had said, that the route was impossible for horses and would be toilsome and difficult for men, it was important to take only those who had great powers of endurance; and he conceived that the best way of testing the question was by a foot-race. The proposition was received with shouts of laughter; but at the same time it was seen to be reasonable; and, accordingly, a course of a hundred yards was immediately paced off and, in the midst of merriment and hilarity, the men began to strip for the contest. So loud and boisterous was the shouting that the Indians in camp were at first much alarmed; but, as soon as they understood what was going on, they became exceedingly interested in the race and expressed a desire to participate in it; and several of them were allowed to enter as proxies for some of the "heavy weights," who insisted that it was against their principles to run under any circumstances but still claimed the right to be represented by those who could. At length, all the preliminaries being satisfactorily arranged, the word was given and away they went—almost all in their shirt sleeves and many barefooted, though there was snow on the ground. It was an exciting and interesting spectacle. It had been expected that the Indians, being famed as runners and absolutely unimpeded by anything like clothing, would come out far ahead; but it was

found on trial that the whites were superior in the race. The result was that a sufficient number to form an ample camp-guard were distanced; and all the satisfaction they had for their disappointment was their claim that Boling's method of selection was simply a proof of legs and not of brains.¹

Early the next morning a start was made for the hiding-places of the Yosemites. The men marched in single file, Savage leading with Tenieya as unwilling guide. The trail led up the ridge between the South Fork and main Merced, very nearly in a line with the present stage road from Wawona. For a part of the way there was little obstruction; but on the divide and beyond it the snow was three or four feet deep and in places much deeper. Every man was required to take his turn in beating down the drifts in front, and the leaders were frequently changed, so that progress was not unsatisfactory under the circumstances; and fortunately the snow packed well and a comfortable path was left in the rear as the column advanced. This had lasted some time, the men in front wallowing on through the drifts and becoming the objects of good-natured jibes from their companions as they were one after the other covered, as it were, with a winding-sheet of snow, when a party of Indians was seen approaching from the opposite direction. As they came near, Tenieya stated that they were his people and intimated that it was therefore useless to go any further. But Savage, having counted the newcomers and found them to number only seventy-two, asked where the remainder were. Tenieya answered that these were all except such as had gone off with their wives and children to the Tuolumnes and Monos. Savage replied that Tenieya was not speaking the truth for the reason that none of the Indians and particularly none of the women and children could cross the mountains in the deep snows to the Tuolumnes or Monos. Tenieya persisted; but Savage said he knew better. The Yosemite tribe was estimated at more than two hundred. That number at least, according to Ponwatchee the Nootchee chief, had congregated when they met to cache acorns or for a grand hunt and drive of game, though at other times they were scattered in small bands, sometimes wide apart, on the sunny

¹ Bunnell, 47, 48.

slopes of the ridges and in the mountain glens. Satisfied from this and other information that Tenieya was endeavoring to deceive him, Savage determined to advance; and, after selecting an active and intelligent young Indian in place of Tenieya as guide and directing the old chief to return with the other Indians to the camp near Wawona, he gave the order to march on; and it was received by his impatient men, as they pressed briskly forward in the path that had been partly broken for them, with a cheer.¹

Savage had not gone far when he suddenly came in full view of the famous valley. It was at the turn of the trail on the top of a jutting cliff, since known as "Inspiration Point," that the first sight of the magnificent scene burst upon his vision. Away off below to the right was Pohono, the Bridal-Veil fall, and to the left, lifting its awful form, Totokonula or El Capitan. Beyond these the gorge extended eastward, past Cathedral Spires, Sentinel Rock and Glacier Point on the right and Indian Cañon, Royal Arches and Washington Column on the left, to the towering South Dome and Cloud's Rest in the distance. Over all and pervading all there rested, with a few flecks of fleeting cloud floating above, a light haze which softened the grandeur of the apparently almost immeasurable heights and unfathomable depths and bathed everything, shadows as well as lights, in floods of the richest and warmest color. There was probably not much sentimentality in Savage and his men in general; but one of them, Dr. Lafayette H. Bunnell, the historian of the expedition, said for himself that, as he gazed for the first time upon the wonderful valley, his eyes became suffused with tears and his whole being swelled with exalted emotions, such as he never felt before or afterwards.² Void of sentimentality, however, as Savage and his men may have been, they nevertheless all recognized the fact that they had discovered one of the most remarkable spots for scenery on the face of the earth; and as soon as they reached the bottom of the valley and camped they began to discuss the question of giving it a name. Bunnell proposed Yosemite and urged that it was suggestive, euphonious and

¹ Bunnell, 52, 53.

² Bunnell, 53, 54.

certainly American and that it would perpetuate the name of the Indian inhabitants. A Mr. Tunnehill on the other hand exclaimed, "Devil take the Indians! why should we honor the vagabond murderers by perpetuating their name?" Another man agreed with Tunnehill and proposed "Paradise valley." But on a vote being taken Yosemite was almost unanimously adopted; and then Savage explained—what Bunnell did not seem to have previously known—that the name signified a full-grown grizzly bear and had been given to old Tenieya's band on account of their lawless and predatory character.¹

When Tenieya was spoken to on the subject he repudiated the name of Yosemite for the valley but acknowledged its correctness for the people he had collected around him. He said that the name of the valley was Ahwahne and that of the original inhabitants the Ahwahnechees. They had been a large and powerful tribe, but had nearly all been destroyed by war and a fatal black sickness many years before. The survivors fled and joined other tribes; and from a superstitious fear the valley was avoided and for a long time left uninhabited. Some, and among them his father, who had been an Ahwahnechee chief, had gone to the Mono tribe on the other side of the mountains. There, among that tribe, his father had taken a wife, so that his mother had been a Mono woman; and he had lived among her people when young. Afterwards, when he grew up, he with some others of his father's tribe visited the valley and claimed it as a birthright; and in the course of time, by receiving and incorporating all who presented themselves into his band, he became the founder of the new tribe known as the Yosemites. It was said that in thus taking possession of and establishing himself in the valley and by degrees gathering about him the band of fugitives and refugees from other tribes, which made up his so-called people, he had been guided by the advice and counsel of an old medicine-man or prophet of the former Ahwahnechee tribe and that at his death, some years before the advent of the Americans, this Indian seer had assured Tenieya that as long as he retained inviolable possession of the valley his band would increase in numbers and power. If he continued to

¹ Bunnell, 53, 54, 59-62.

befriend all Indians, who should seek his protection, no other tribe would ever dare to attack him. But he was to be particularly on his guard against white horsemen of the lowlands; and as a parting warning he declared that, if they should be suffered to enter the valley, Tenieya's band would be scattered and destroyed and Tenieya himself, without successor, would be the last of the Yosemites.¹

It seems that it was for this reason, when the gold-diggers began spreading in the Mariposa mountains, that Tenieya had attempted to drive them off and thus keep them away from his home; and it was apparently for the same reason, when all his efforts had failed and he found Savage and his soldiers approaching, that, without waiting for them in the valley, he had gone to their camp near Wawona and delivered himself up and sent for at least a portion of his people to do the same. His object evidently was, by thus surrendering in advance, to render it useless for the whites to pursue their expedition any further into the mountains. He thought that by temporarily yielding the excitement in reference to Indian troubles would soon subside; that the soldiers finding no enemies in arms would presently disband, and that in a comparatively short time he might easily find means of getting back into his valley and again gathering his followers about him. It was a superstitious fear and a desire to ward off the fate thus threatened against him and his people that had induced him to act as he did, instead of posting himself in one of his thousand mountain fastnesses and defending himself with the fierce vigor and ability for which he was renowned. But, as has been seen, Savage for various reasons and especially a well-grounded belief that Tenieya was endeavoring to deceive him, instead of abandoning his expedition, resolved to march on and entered the valley; and thus occurred the event upon which the old prophecy was based.²

Savage's belief that only comparatively few of Tenieya's band had delivered themselves up proved to be entirely correct. Yet, when the troops first marched through the valley, though smoke indicating the presence of human beings could be seen in vari-

¹ Bunnell, 63, 64, 70, 71.

² Bunnell, 72.

ous directions and it was afterwards ascertained that there were many in hiding, no one could be found except a single very old squaw, who was so wrinkled that she resembled a vivified Egyptian mummy and was evidently the relic of a long-past generation. When discovered she was squatting over the remnants of an almost exhausted fire near the Royal Arches. She manifested no alarm whatever, nor exhibited any curiosity; and it appeared to make no difference to her when the fire was replenished and her old limbs warmed up. Savage endeavored to elicit information from her; but he got nothing for his pains. When he inquired where her companions had gone, she answered, "You can hunt for them, if you want to see them." When asked why she had been left alone, she replied, "I am too old to climb the rocks." When interrogated as to how old she was, she returned an ineffably scornful look at the major but maintained an indignant silence. When Tenieya was afterwards asked about the strange old creature, he said that no one knew her age; but that there had been a tradition among the oldest members of the tribe that when she was a child the peaks of the Sierra had been very little hills. Subsequently an attempt was made to remove this antiquated piece of humanity to the reservation; and for this purpose she was placed on the back of a mule and started on her journey; but it was soon found that she could not bear the fatigue and had to be left in the valley, whence, not long afterwards, she departed for that happy region where "the wicked cease from troubling and the weary are at rest."¹

No other Indians were at that time found in the valley; but stores of food were abundant. These consisted principally of acorns, though some contained laurel, pine and chincapin nuts, grass seeds, wild oats, scorched worms, roasted grasshoppers and what proved to be the dried larvæ of animalculæ gathered from the waters of lakes about and east of the summit of the Sierra. The acorns alone were estimated at from five to six hundred bushels; and they were preserved in those curious magazines made of wicker-work raised on legs some feet above the ground and thatched on top so as to shed the rain. It was plain from these and other indications that many Indians

¹ Bunnell, 73-78.

were not far distant, concealed doubtless in the rocky gorges and cañons. But the supplies which Savage had taken with him were not sufficient to justify a longer stay in the valley; and, after destroying all the wigwams and magazines that could be found, he returned to his camp on the South Fork of the Merced, having been absent on his trip to the valley only three days. From there he proceeded with Tenieya and about three hundred and fifty Indians, including the Yosemites, for the reservation; and they marched in such a direction and made such stops as to camp every night near hoyas or mortar-holes in the rocks, which were then frequent throughout the mountain country though long since abandoned, so that the squaws could conveniently prepare their mush out of the acorns and grass seeds they carried with them. After several days' march they arrived about sundown at their last camp, which was within a few miles of the Fresno reservation. The Indians and especially Tenieya appeared so entirely satisfied and contented that it was deemed unnecessary to keep any longer much of a guard; and Savage and most of his men, wishing to spend no more time on the road, marched on to the reservation—leaving Boling with nine men in charge of the camp and with instructions to come in with the Indians the next morning.

Tenieya had been playing a game of cunning and duplicity all the time; and now came his chance to get away, which he was not slow in taking advantage of. He waited, however, until all was quiet and Boling and his men well asleep. He and his people then rose and slipped away; and some time afterwards, when their absence was discovered and Boling and his men went to look for them, the other Indians in camp followed their example; and in the morning, of the three hundred and fifty that had been there the evening before, not a man, woman or child was left. Pursuit, however, was made and most of the runaways were brought back and induced to go on the reservation. But the Yosemites and the Chowchillas got back to their old haunts; and, as they refused again to come in, it was found necessary to make new campaigns, one against each tribe. The first was against the Chowchillas. They had congregated on the North Fork of the San Joaquin river. Savage marched against

them with Boling's and Dill's companies. Before he had gone far, he was sent for to treat with the Kaweahs, who had been sent in from the south by Kuykendall, and left the expedition in charge of Boling. The latter proceeded at once to the Chowchillas' camp; but as he approached the Indians fled. This was unexpected conduct on their part; for, next to the Yosemites, they were reputed to be the bravest, most turbulent and most uncompromising of all the mountain tribes. But there appears to have been a reason for it. José Rey, or Joseph the King as some called him, their leader and one of the chief instigators of the recent troubles, was recently dead; they had no one to take his place, and they were demoralized. They had a few guns; but their main weapons were bows and arrows. Their bows were made of a species of yew tree, sometimes known as the nutmeg pine, and some of their arrows were tipped with a poison made of decomposed flesh and rattlesnake virus. All their weapons, however, were useless without a leader and, after José Rey died, they never had another of sufficient vigor and ability to command them. Not long afterwards the fugitives made a treaty with Savage and came in; and they eventually proved to be the most tractable and reliable of all the mountain Indians.¹

The second campaign was against the Yosemites. Savage being still otherwise engaged, the business was intrusted to Captain Boling with the same companies he had led in the campaign against the Chowchillas. He proceeded at once with his soldiers into the valley. The first thing they saw, besides the magnificent scenery which had lost nothing since the first visit, was a quantity of acorns that had evidently been raked out of the former fires; but no Indians could for some time be seen. As they proceeded up the south side of the valley, however, upon getting above Bridal-Veil fall, they perceived five Indians on the opposite or north side of the river, who, supposing themselves safe on account of the intervening stream, were taunting the whites with insulting gestures. Boling, being determined to take them, suddenly with seven or eight of his men plunged into the river and crossed. At this unexpected movement, the Indians

¹ Bunnell, 78-136.

fled and hid themselves in the talus or débris of the cliffs now known as the Pompompasus or Three Brothers; but they were at length hunted out and brought in and proved to be three sons of Tenieya and two others, one of whom was a son-in-law of the old chief. The soldiers then proceeded in search of other Indians and, it being ascertained that Tenieya himself and some of his people were on the cliffs near the North Dome, several attempts were made to reach them, which proved unsuccessful. The rocks were too steep and no trail could be found; and, besides these natural difficulties, the Indians above cast down quantities of stones, which endangered the lives of all who attempted to ascend and seriously injured one or two of the whites.¹

Boling was loth to proceed to extremities and sent two of the Indians he had captured in charge of Bunnell to induce Tenieya to come in without further trouble. While waiting for an answer, the soldiers remained in camp near the foot of Scho-look or Yosemite falls. Time hanging heavy on their hands one afternoon, they proposed that the remaining captives should give them an exhibition of their skill at archery. With Boling's consent a target at long range was erected towards that part of the north wall of the valley which is now known as Indian Cañon. In the contest one of the captives made several remarkable shots and after each waited for the arrow to be brought back. At last, though apparently taking great care, he fired, as if by accident, far over the target. He watched the flight of the missile with great earnestness and then, saying that he saw where it had fallen, followed the soldier, who had gone to pick it up. While pretending to hunt for it, he suddenly made a dash for liberty up Indian Cañon and managed to get away. Among the rocks several thousand feet in altitude above where he escaped, there is a long, slender, perpendicular shaft of granite which is now popularly known as the "Lost Arrow;" and it is said to have derived its name from the circumstance thus related.²

After this escape, Boling gave up all idea of further temporizing and dispatched Lieutenant Reuben Chandler with a number

¹ Bunnell, 146-157.

² Bunnell, 159-162.

of skillful and determined scouts to surround and seize Tenieya. At the same time he ordered his two remaining captives to be tied back to back, fastened to an oak tree in the middle of the camp and put under strict guard. Not long after the departure of Chandler and his party, the captives succeeded in untying each other and started to run, whereupon the guards, who had been deliberately watching their movements, fired and killed one, who proved to be Tenieya's favorite son. While the body was still lying on the ground, the warm blood still oozing from the fresh wound in its back, Chandler and his scouts, who had been successful in their hunt, returned bringing in the old chief. The latter came up, apparently proudly conscious of being an object of attention; but, when his gaze fell upon his dead son, he halted for a moment and then cast his eyes around the camp as if looking for the body of his other son, who had been the fellow captive of the one before him. From that time forward, Tenieya, except occasionally when he would break out in a torrent of denunciations, either maintained a moody silence or lamented in a plaintive voice that he had been ruthlessly despoiled of all that made life worth living. In his tirades he was often eloquent; and hardly any one could help sympathizing with him in his great sorrow. Boling said he began to feel for him a genuine respect; but this feeling was sorely tried upon witnessing the manner in which he ate. Instead of a spiritual being, chastened by the hand of fate and eloquent in the expression of his sufferings, he then became a greedy and filthy glutton. Being a voracious feeder and liberally supplied with fat pork and beans, he soon surfeited and, on account of lack of sufficient exercise, began to suffer from indigestion. Feeling ill, he complained that the food was too strong and begged to be allowed to go out into the green meadows and feed there. Boling was entirely willing to gratify him but did not think it advisable to turn him loose; and a sort of compromise was made by staking him out with a rope to graze to his heart's content upon the young clover, sorrel, bulbous roots and fresh growth of ferns, which were springing up on every side.¹

The whites remained in the valley on this occasion over a

¹ Bunnell, 162-190.

month and during their stay named most of the points of interest. But it can not be said that the new names were any great improvement over the old ones. The repetition of Yosemite as the name of the falls, after it had been adopted as the name of the valley, was hardly an improvement on Scho-look; nor was a re-repetition of the name as applied to the creek an improvement on Scho-tallowi, its Indian name. The main branch of the Merced up to Vernal fall had been called Can-o-pah or the Water-cloud branch, and above that Yo-wy-we-ack or Twisting-rock branch. Nevada fall was originally Yo-wy-we or Squirming-water fall. The North Branch of the Merced was Py-we-ack or Glistening-rock branch and the South Branch Too-lool-lo-we-ack or river that runs among rocks, since seemingly corrupted into the name Illilouette. Wai-ack was the Indian name of Mirror Lake; To-sa-ack that of South or Half Dome; To-ko-ya that of North Dome; Scho-ko-ni, the movable shade of an Indian cradle, that of the Royal Arches, and Scho-ko-ya that of the trickling fall pitching over them. Sentinel Rock seems to have been called Loya, a corruption of the Spanish olla, an earthen water jar. The Indians, instead of an earthen water jar, used a long, pointed, closely-woven basket, which the rock was supposed to resemble and hence its name. Cathedral Rocks were called Poo-see-na-chuc-ka, meaning rat and mouse proof magazines, on account of their fancied resemblance to the tower-like structures of wicker-work, built by the mountain Indians and designed as store-houses for their winter supplies of acorns.¹

About the beginning of June, when the snow had to a great extent disappeared, as no more of Tenieya's people could be found in the valley or its immediate surroundings, Boling ordered an advance up into the higher regions of the mountains. The route lay up the course of the North Fork of the Merced to a comparatively large lake, before unseen by white men, about ten miles northeast of Yosemite valley proper. As soon as the old chief found that the march was in that direction, he used every means in his power to divert it, failing in which he made several attempts to escape. On reaching the lake, which even then, June 5, 1851, late as it was in the season, was still covered with

¹ Bunnell, 201-214.

ice strong enough to bear a horse, the remainder of Tenieya's people were at length found and captured without difficulty. They were in such miserable condition and had suffered so much that they were rather glad than otherwise to be made prisoners and fed. There were thirty-five of them, nearly all of whom were in some way or other a part of Tenieya's family. These being all the hostiles that could be found, it only remained to conduct them to the reservation. Upon leaving the lake, the name of Tenieya was given to it. But the old chief, when informed of the fact, did not exhibit any signs of pleasure. On the contrary he seemed depressed and during the journey to the reservation maintained a melancholy taciturnity. He apparently felt that he was leaving the home of his ancestors never again perhaps to return to it. He thought of the old prophecy. The spell of fate had fallen upon him; and there was no resisting it. The white horsemen of the lowlands had entered the charmed valley. His people were being scattered and destroyed; and he now felt, if he had not felt it before, that he was to be the last of the Yosemites.

On arriving at the reservation, the captives were turned over to the care of the government agents, and there was a general feeling that the Indian war in Mariposa county was ended. By that time the commissioners, escorted by a body of United States soldiers, had gone down to King's river to treat with the stray bands collected at that place; and, there being no other hostiles from the Tuolumne to the Tejon, application was made for the discharge of the "Mariposa battalion;" and on July 25, 1851, it was mustered out of service. At the reservation, which was managed much in the stereotype fashion of Indian reservations in general, old Tenieya was never the recipient of any very great favor. He seems to have been set in his ways, obstinate and exacting—at any rate the agents did not like him. This becoming apparent to the Indians of other tribes congregated there, who had formerly stood in awe of his power, they frequently taunted him with his downfall. He chafed under the contemptuous treatment and in the course of some months applied for permission to revisit his mountain home, representing that he could not endure the heat at the reservation and that he pre-

ferred acorns, which he could gather for himself, to the rations furnished by the government. The reservation authorities, apparently glad of an opportunity to get rid of some of the petty squabbles thus engendered and possibly with an eye to saving rations, consented to a short absence under certain conditions; and the old chief with what was left of his immediate family joyfully took the trail once more for the great valley.¹

It is not likely that Tenieya himself would have given any further trouble; but unfortunately the reservation authorities, after thus getting rid of one family, allowed others to follow and among them some who could not resist a favorable opportunity for plunder. In the early part of May, 1852, a party of these incorrigibles attacked and killed several miners, who had entered the valley; and, upon a report of the murder being forwarded to Fort Miller on the upper San Joaquin river, Lieutenant Moore of the United States army was sent with a detachment of regular soldiers, to punish them. Moore so timed his march as to enter the valley at night and succeeded in capturing five of the murderers; but Tenieya and his family, having in some manner heard of the march, succeeded in keeping out of the way. The captives, when accused of the murder, did not deny it but claimed to justify themselves on the ground that the valley belonged to them and that the miners had no right to enter it without their consent. When answered that the land had been sold to the government, they replied that neither Tenieya nor themselves had ever consented to any sale of the valley. Moore, however, had no idea of considering questions of this kind; but, being satisfied that his prisoners were guilty of murder, he summarily pronounced judgment and ordered them to be shot—a sentence which was forthwith carried into execution.²

When Tenieya heard of the shooting, he and his family made a precipitate retreat and crossed over the summit of the Sierra into the country of the Monos. He had had nothing whatever to do with the murders; but he was afraid of being charged with participation in them by an officer that thus assumed to act as prosecutor, judge, jury and executioner all in one. He there-

¹ Bunnell, 231-273.

² Bunnell, 273-276.

fore fled. Moore followed in close pursuit; but the old chief knew much more about the mountain trails than any one else and easily escaped. He might, perhaps, have gone back to the reservation; but it is hardly to be wondered at that he did not. There was not any more safety and not so much peace there as in the mountains. Even though innocent, he would have been suspected; and suspected or unsuspected, life at the reservation would have been irksome to him. He was a mountaineer and could not be contented or comfortable in the heavier and closer atmosphere of the plains. Besides he could not expect any more kindness or good treatment from the government agents than he had received before. The whole reservation system, however excellent in theory, was so managed as to be a system of neglect of the Indians and fraud upon the government. While, for instance, Tenieya and his family were allowed to support themselves on acorns in the mountains, the cost of rations for their support at the reservation appears to have been regularly charged up against the government; and it is said—and apparently with much truth—that the appropriations obtained from congress were ten times larger than the facts would warrant.¹

But the greatest troubles about the reservations were the repeated efforts of lawless persons to drive the Indians off and seize their lands. One of these difficulties occurred at the King's River reservation, which was organized at the same time with that of Fresno and under the same general management. There had been a decided opposition by the citizens of the neighborhood to the establishment of the reservation; and the selection for it of some of the best land in that section of country was the occasion of much outcry. It was charged that the commissioners in the location acted unjustly towards the citizens; and ill feeling in relation to the subject rather increased than diminished after the site was fixed upon. In the summer of 1852, certain individuals, thinking proper to take the law into their own hands and being, as was supposed, incited thereto by one Walter H. Harvey, settled on portions of the land and, when interfered with by the reservation Indians, opened fire and killed

¹ Bunnell, 271, 277.

several of them. These homicides were reported to Major Savage, who after the discharge of the Mariposa battalion in July, 1851, had resumed his trading and mining operations; and he denounced them as murders and charged Harvey with being responsible for them. Harvey in answer made accusations against the integrity of Savage and, among other things, said that Savage would not dare to meet him at the reservation. Savage, as soon as he heard of this boast, mounted his horse and rode down to King's river; where, meeting Harvey in the government quarters, he denounced him to his face and in the presence of various witnesses. Harvey replied with the word "lie" or something equivalent, when Savage, with a blow of his fist, knocked him down. Harvey lay for some time as if he had enough; but, when Savage turned to leave him, he drew his pistol and shot Savage down. The wound was a mortal one. Savage, feeling it to be such, made an effort to reach Harvey—it was all he asked—but his failing strength was insufficient; and with a few gasps, his great, strong, rough life passed away.¹

Such being the condition of affairs at the reservations, Tenieya, instead of returning to Fresno, preferred to skulk among the cliffs and chasms of the high Sierra and for some time was hunted from pillar to post, as it were, by the United States soldiers. When the search was given up, he made his way to the villages of the Monos; and, after sojourning there awhile and finding that everything had become quiet on the western slope of the mountains, he returned again to the Yosemite valley. But unfortunately a number of the incorrigibles of his old band again followed. They had been effectually cured by Moore of any desire to attack the whites; but they thought they could safely raid upon other Indians; and in a spirit of base ingratitude they stole the horses of the Monos. What part Tenieya had in this raid, it is difficult to tell. Probably none. But, however this may have been, he was the first and principal object of attack by the vengeful Monos. For a time, notwithstanding his age, he managed to hold a number of his assailants at bay, until at last a young Mono chief, who had exhausted his supply of arrows, seized a fragment of rock and hurled it with

¹ Bunnell, 280, 281.

such force as to crush in the old chief's skull. As Tenieya fell, other rocks were cast upon him until, in accordance with a Piute custom, his dead body was covered and literally buried in a pile of stones. The Monos then pursued the other Indians and killed all except some very old persons, who were allowed to escape, and some young women and children, whom they carried into captivity across the mountains. There was no longer any Yosemite tribe nor, so far as known, any living being of Tenieya's blood. He was, in truth, the last of the Yosemites.¹

¹ Bunnell, 293, 294.

CHAPTER X.

AGRICULTURAL AND HORTICULTURAL ADVANCE.

AFTER the discovery of the Yosemite valley, and particularly after attention had begun to be attracted to its extraordinary and in some respects, so far as known, unparalleled beauties, other valleys of somewhat similar character and extent were found not far distant and especially one, called the Hetch-Hetchy, on the head-waters of the Tuolumne river to the north of it and one on the head-waters of King's river and another on the head-waters of Kern river to the south of it. They were all scooped out on the western slope of the Sierra Nevada, comparatively near the summit, and all in very much the same kind of a granite formation. Each may be said to have its peculiar beauties—the King's river cañon being the largest and most stupendous; but none can compare with Yosemite in its magnificent water-falls and the variety and general grandeur of its scenery. As in the case of other natural wonders, efforts have been made to assign a cause for the sinking down or cutting out of the Yosemite; and, while some think it had a cataclysmic origin, others suppose it was ploughed out by a glacier. But the fact of the existence of several gorges of much the same general character in the same general region would seem to indicate that similar causes operated in all the cases and that they were not extraordinary or unusual causes. Fissures or ravines slowly formed by the upheaval of the Sierra and perhaps widened and deepened by glaciers, at a period when the climate of California was different from what it is at present, may have had something to do with these valleys; but it is likely that gradual erosion of a peculiarly soft and friable granite was a very important, if not the most important, factor in the production of these enormous cañons.

There can be no question that volcanic action played a very considerable part in the topography of California, though there is not now, and has not been within the time of historic record, any active volcano in the country. But the several table mountains, already described, and the numerous and extensive beds of lava and tufaceous rocks and other volcanic products in various portions of the state, show that in the far distant past, it was to a considerable extent a land of fire. The numerous hot and medicinal springs, though perhaps not caused by volcanic action nor the remains, as some appear to think, of what was once volcanic action, nevertheless seem to indicate a condition or composition of the under crust of the earth in some respects similar to those of volcanic countries. These springs are almost innumerable and of great variety as to their mineral qualities and are probably not exceeded in value as springs in the world. They are mostly situated in the coast range of mountains or in the valleys adjacent thereto and extend all the way from the northern to the southern border of the state—many of them, such as Shasta Soda, Bartlett, Vichy, Ætna, Litton, the Geysers, Calistoga, White Sulphur, Napa Soda, Byron, Gilroy, Paraiso, Paso Robles and other springs open to visitors, being widely known.

The most remarkable probably, and certainly those which have been most wondered at and hitherto most talked about, are what are called the Geysers in Sonoma county. They are situated in the ravine of Pluton river, as it is called, a trickling affluent of Sulphur creek, a small tributary of Russian river, about seventy-five miles a little west of north from San Francisco and about ten or twelve miles a little west of south from the southern end of Clear Lake. Almost all the Clear Lake region was once volcanic as indicated by its general form and character and the numerous and extensive beds of lava, obsidian, sulphur and other volcanic remnants scattered about. The Geysers, which are chiefly confined to a small ravine, not more than a quarter of a mile long, consist of a great number of very small springs, some very hot and some cold and a number of holes in the loose, hot earth, which emit steam and sulphurous vapors. In a few of the springs there is some ebullition, and in some places what may perhaps be called a little sputtering of water

and mud; but there are nothing that can properly speaking be called Geysers such as those of Iceland or Yellowstone Park. It is said, however, and it seems probable, that forty or fifty years ago, when the Geysers were discovered, they were much more active than they are at present and more deserving of their name. Water was said to have spouted up from five to ten feet and the jets of steam were larger and stronger. However this may have been, the Geysers, even as they are, have ever since their discovery been regarded as one of the wonders of California; and, on account of the magnificence of the scenery in their neighborhood and the wild and strange appearance of the hot and steaming bed and sides of Pluton river, with their bubbling and sputtering springs and their clouds of hot steam and their incrustations of sulphur, iron, soda, salts, magnesia and alum, they have always attracted, and continue to attract, many interested and delighted visitors.¹

The discovery is said to have taken place in April, 1847. The entire region in those days abounded in large game, particularly bears, elks and deer. A party of mountaineers, engaged in hunting and trapping on and about Clear Lake, had started out after bears, when one of them, named William B. Elliott, believing he had discovered the right trail of the game, separated from his companions and spurred his horse over the ridge, which divides the Clear Lake valley from the deep and precipitous cañon of Sulphur creek. He had never beheld a volcano or even a steamboat or locomotive; and, upon seeing the steam of the Geysers and getting close enough to witness the boiling waters, hear the roaring noises and smell the sulphurous fumes, forgetting all about bears and turning his horse's head in affright, he made his way back as rapidly as possible; and, pale and breathless with excitement, dashing into the midst of his wondering comrades, he exclaimed, "Boys, boys, I've found Hell!" From that time on the Geysers were visited not only by tourists but also by hunters, who for a number of years found the vicinity rich in sport. A visitor, who went there in March, 1852, in company with several hunters, reported that in three days they had seen thirty-two bears, most of them of the grizzly

¹ See Bartlett's Personal Narrative, 47, 49, 50.

several of whom they killed two and wounded and lost three. It took time for the negotiations to be all very difficult, the only way of reaching the spot being by mule teams and in some places overgrown trails. Since years afterwards a mountain road was constructed from Marysville to near the summit of what is known as Sheep Rock and thence along the top of an extremely rugged ridge with enormous chasms on each side, called the Devil's Backbone to the top of the cañon leading down to Sacramento or White Horse Ranch the stage-drivers, and particularly the Clark Express with a desire to attract attention, made it a point to go at a break-neck rate of speed. Subsequently several more convenient roads were opened, one from Coloma and one up the South fork creek cañon from Cloverdale.¹

In the most important discoveries by the Americans in California were one of burns, chasms or springs or other scenic features or a river. In the country they were, next the mines and in the end much more important than the mines, the extensive valley cañons of the country for agricultural purposes and as a place of human residence and activity in all directions that make life desirable and valuable. It was a very general impression in the early days notwithstanding the luxuriance of a few mission gardens, that the country in general was arid and of very little account for crops of any kind. A few thought differently; but the usual view was that no grains or vegetables could flourish without summer rains as in the Atlantic states and Europe; and it took some time to learn by experience that the peculiarities of the seasons in California were favorable, instead of otherwise, to the grain growers and horticulturalists. It is true there were some few instances of unprecedented crops in choice locations, particularly in the vicinity of San José; nevertheless no one ever dreamed of the possibility of the immense fields of grain and other vegetables or the miles of vineyards and orchards that now spread in every direction over the land and even cover tracts that before were deserts, where even sheep could not find enough sustenance to exist.

In 1849 Robert Semple, then a resident of Benicia, who was

¹ Five Years within the Golden Gate, by Isabella Saxon, Philadelphia, 1866, 142; Bartlett's Personal Narrative, 48.

president of the constitutional convention and a very prominent man in the country, said, speaking more especially of the San Joaquin valley, that the plains, which formed about three-fourths of the area, were wholly unsusceptible of cultivation from the fact that they were not only poor and barren but that the dry weather in summer would not permit a crop to be raised. He therefore declared that the population of California would forever be confined to the banks of the rivers; and, by way of comparison, he added that the country taken altogether was greatly inferior to the western states east of the Mississippi river. But he likewise said that those, who got situations on the rivers, where they could easily irrigate the soil, would do two hundred per cent better than in Missouri. Such was the judgment of a man who was trustworthy and whom everybody would have felt disposed to trust. On the other hand Lansing W. Hastings, a man in whom very little reliance was or could be placed, came very near the truth when, about the same time, he said that in his opinion there was no country in the known world possessing a soil so fertile and productive, with such varied and inexhaustible resources and a climate of such mildness, uniformity and salubrity as California; nor was there any other country so eminently calculated in all respects by nature herself to promote the unbounded happiness and prosperity of civilized and enlightened man.¹

About the time that Semple and Hastings wrote, those who sailed up and down the Sacramento river below Sacramento could see all along on both sides of the stream, instead of cultivated orchards, gardens and farms as now, very little but brushy borders and grassy wastes, covered with droves of elks.² The earliest gold-miners, who went up the river from San Francisco in 1848, used to amuse themselves at times by setting fire to the dry brush and watch the broad flames as they swept and crackled along in the direction of the breeze. There was one point, however, on the west bank of the river some five miles or more below Sacramento, where an old German, named Schwartz, had

¹ A New Description of Oregon and California, &c., by L. W. Hastings, Cincinnati, 1849, 133, 154.

² Lyman's Journal, &c., 138.

located and turned his attention to the cultivation of the soil. Some of the adventurers on their way to or from the mines stopped at his place for supplies; and he doubtless heard enough of the fortunes that were, or were to be, dug out of the bars and banks in the foot-hills. But, instead of being carried away by the stories he thus heard, the old fellow in the spring of 1849 planted, in addition to his ordinary small garden, several acres in melons; and in the summer, as the fruit ripened, he carried it up the river to the city and sold it readily at the rate of from one to three dollars per melon according to size. And in that one single season he realized from the sale of his melons alone the enormous amount of thirty thousand dollars—a sum much greater and much more easily made than he could have dug in the mines.¹ In 1851 a melon-grower near Sacramento cleared twenty thousand dollars from his crop; and one of his melons, cut up and disposed of by the pound, sold for twelve dollars.² In the same spring of 1849, in which Schwartz was raising his melons near Sacramento, there was, at various places within easy reach of San Francisco, on account of the excessively high price of potatoes and the ascertained fact that they could be raised without irrigation, a sort of potato-growing fever, which for that season raged almost as violently as the gold mania. Hundreds of thousands of dollars were said to have been invested in the business. Fifteen cents per pound were paid for seed potatoes and a hundred dollars per month per man for laborers to fence, prepare land and attend to the crop. The result was that immense quantities were planted and the yield was enormous; but the market was glutted and the price of potatoes went down to about the cost value of the sack that contained them. Hundreds of thousands of tons of the finest qualities, after being dug and gathered into large cribs, are said to have been allowed to lie and decay, as it would not pay to remove them; and the effluvium from their decomposition was in some places so offensive and deleterious as to cause fears that it might breed a pestilence.³

An English resident of 1850 and 1851, a close and careful

¹Buffum's Six Months, &c., 31; Burnett's Recollections, &c., 337.

²Mrs. Bates' Incidents on Land and Water, 129.

³Taylor's California Life Illustrated, 248.

observer, was very forcibly struck with the remarkable change in the appearance of the country produced by American farms. He said that about the beginning of 1851 a portion of the Carillo family left their broad acres of uncultivated land near Santa Rosa, which were almost immediately afterwards occupied by Americans; and that the difference in a few months was wonderful. As he expressed it, "as slothfulness and ignorance stepped out, intelligence and industry usurped their place," and on the rich plain, which had previously been little more than a useless waste, the wild waving oats fell to the scythe, while the plow upturned the maiden soil on every side. And, he went on to say or at least to intimate, that other land and other people of the country and in fact of the continent, who were not sufficiently progressive, would have to succumb to the advance and increasing wants of the Anglo-Saxon race.¹ In the same year 1851, in the upper part of Napa valley, an American settler, named Kilburn, planted near his house two acres of onions from which he realized in the market of San Francisco eight thousand dollars in cash. Onions, in addition to their good keeping qualities, were considered the most valuable of all vegetables among the miners on account of their anti-scorbutic properties. Kilburn's experiment demonstrated that in California they would grow to an enormous size and yield an immense crop. John Russell Bartlett, the explorer, in mentioning the above facts, stated that he had been convinced from his own experience of the great value of onions, wherever there was a predisposition to scurvy, and that there was no vegetable which a person in that condition craved more. He said that he himself had purchased many at twelve and a half cents apiece and that he had eaten them with more relish than he had ever eaten oranges.²

In 1852 Frank Page, son of Daniel D. Page of Page, Bacon & Co. and the agent of the branch of that banking and express concern at Sacramento, returned on a visit from California to his father's house in St. Louis. While there, one day at dinner,

¹ Marryat's Mountains and Molehills, 136, 137.

² Personal Narrative of Explorations and Incidents in Texas, New Mexico, California, Sonora and Chihuahua, &c., by John Russell Bartlett, New York, 1854, 25.

seeing some Missouri onions on the table, he casually remarked that they were very small affairs for onions. His father answered that they were the largest to be had in the market. Frank replied, very innocently and without thought of attracting attention, that in California onions grew about as large around as the crown of a man's hat. Upon this the fifteen or twenty guests at the table threw themselves back in their seats and laughed immoderately. The young man was considerably mortified, because he was the only one present who had been in California and there was consequently no witness to corroborate his statement. Though he had always been considered truthful and though the guests were too polite to say in words that they did not believe him, they plainly showed that they did not by their actions. And during the remainder of his visit, whenever in answer to inquiries he would state any fact in regard to California that exceeded their Missouri experiences, his father would take off his hat, run his thumb slowly around the crown and look slyly at Frank as much as to say, "Another onion story, my son?" This and other quizzing were repeated so often that Frank shook the dust of St. Louis from his feet and returned to California quicker than he would otherwise have done. In the autumn of 1853, however, the old gentleman himself made a journey to the Pacific coast and visited his son at Sacramento. Frank had not forgotten the treatment he had received at St. Louis. He asked his father to take a walk with him and, after showing him various establishments in the city, conducted him to a large agricultural warehouse, where he pointed out to him large beets, squashes, melons and potatoes. Finally stopping in front of some sacks containing large onions and pointing to them, he dramatically took off his hat and slowly running his thumb around the crown cocked his eye at his father. The old gentleman, who had been looking with astonishment on the beets, squashes, melons and potatoes, completely surrendered at the sight of the onions and, with a flushed face and deprecatory air, confessed that he would not have believed that onions so large could have been grown anywhere if he had not seen them with his own eyes.¹

¹ Burnett's Recollections, &c., 373, 374.

About the same time it was found that even in the mountain valleys and sometimes in the immediate neighborhood of the mines, crops would grow and ripen and yield abundantly. A careful observer, who in 1854 published an account of what he had seen in California, expressed an opinion that there was productive arable land enough in the mountain valleys, if properly cultivated, to supply the whole mining population with grain, fruit and vegetables, while the large valleys could raise enough to supply not only their own population but that of the cities and also an immense surplus for exportation. And in explanation of his remarks, which then sounded strange to many persons, he said that he had been induced to completely change his preconceived opinion with regard to the agricultural capacities of the country by actual demonstration.¹ In the legislature of 1854, W. S. Letcher, an assemblyman from Santa Clara county, presented a report of the committee on agriculture in which, after calling farms cultivated in accordance with advanced and scientific methods fortresses more impregnable than could be devised in any other way, he said that a few years before that time the agricultural resources of the country had been comparatively unknown; but that since then the soil, previously deemed almost valueless, had been found by experience to be highly productive. He said further that immense tracts of land on the summits and slopes of hills and mountains, regarded as fit only for pasture, had been found good for raising grain without irrigation. He added that about twenty-five millions of dollars were annually employed in the import trade of California and that within the previous one year more than five hundred thousand barrels of flour had been brought into the country, costing from five to ten millions of dollars for that article alone. He concluded by saying that with encouragement and protection there was a great future for agriculture in California, not only in all the grains and fruits but that, if wise care were bestowed on the subject, rice, cotton, tobacco, tea, coffee and sugar might be embraced within the number. And, as dependent upon and supported by the improved cultivation, he spoke of high-grade sheep and goats yielding first-class fleeces for manufactures, and of mulberry trees

¹ Delano's Life on the Plains, &c., 382.

affording food for the worms that might clothe the people in the silks and satins that were diverting such large amounts of their treasure to other nations.¹

In the course of a very few years, though little or no progress was made in the raising of rice, cotton, tobacco, tea, coffee or sugar cane, the production of wheat and other grains, fruits of nearly all kinds, wine and wool was very large and it had been shown that silk of the best quality could be raised in almost unlimited quantities. In 1872 there were twenty million bushels of wheat harvested in the San Joaquin and Sacramento valleys, though considerably less than a fourth of the land was under cultivation and much of the cultivation was rude and superficial. From the portion of the San Joaquin valley that was planted twelve million dollars worth of wheat was taken, which was equal in value to more than half the yield of all the mines in the state for the year, while the number of laborers and expenses of production in the case of wheat was not a tithe of what was required in getting the gold. The value of the wheat crop of 1874 was over thirty millions of dollars and that of 1875, which was an unusually dry year, was about twenty-six millions. As one observer expressed it, "Nature or nature's God has done ninety-nine parts towards making these valleys one of the richest agricultural districts in the world: can man not supply the small remaining fraction?"²

Charles Nordhoff, in a book published in 1878, said that in 1847, when he spent eleven months in California, it was universally believed that but a small part of the soil would produce crops. Everybody remarked that there were no trees on the great plains on each side of the San Joaquin and Sacramento rivers; and they judged that, as trees did not grow there, the soil must of course be sterile. Yet many of those treeless plains had since been yielding from fifty to eighty bushels of wheat per acre and hardly a year had passed that some adventurous farmer had not discovered some new product for which the climate and soil were specially adapted and which paid better than gold mining. He attributed the ill repute of the state in the early

¹Journal of Legislature of 1854, 498-500; App. Doc., No. 8.

²Cone's Two Years in California, 103, 170.

days as an agricultural region to the fact, in part at least, that the first cultivators sowed in the same season as in the eastern states and got no return. But there was a very great and rapid change when people began to understand the peculiarities of the country and when and how to cultivate and harvest. He had himself, in that very treeless and supposed barren region, seen a luxuriant wheat field of forty thousand acres; and fields of from one thousand to five thousand acres were not uncommon. He had also seen, all at one time and in one of those supposed arid fields, ten eight-horse teams drawing gang-plows following one another for straight distances a mile long and leaving behind them, when all had passed, a track forty feet wide of ploughed ground. He had also seen the harvesting of some of these fields, where the grain was cut, threshed and put into sacks with a single machine at the rate of one hundred and fifty acres per day, requiring the labor of nine wagons, twenty-three men and eighty-three horses to keep up the work. And finally he had seen, after the crop was harvested, the teams hitched to large bundles of brush wood, six horses to a twenty-foot brush, which were dragged over the field at the rate of about forty acres per day for each team, scattering the seed that had been dropped in the harvest or, if that was less than usual, the small quantity that was added. After it was thus brushed over, the field was ploughed a few inches deep to cover the seed and then left, without further care, until the next summer when what was called the "volunteer crop" was harvested in the same manner as before. In some cases, dependent upon the character of the soil, harrows were used instead of brushes. But in all cases the volunteer crop was counted on with as much certainty as the regular crop and frequently it was a better one.¹

In fact some of the farmers raised so much wheat that they raised nothing else, not even potatoes or vegetables for their own use. All their food supplies were purchased in the towns or cities and consisted in great part of green-grocer and canned goods. They would usually in a good season sell their wheat for a large price and buy more land or spend the money in

¹California: For Health, Pleasure and Residence, by Charles Nordhoff, New York, 1878, 119, 130, 182, 184, 185.

almonds, walnuts, olives, figs and horticulture in general, though carried on to some extent in the northern part of the state, in early times received their first large encouragement in the southern counties. The commencements made and the successful results accomplished by such men as Wolfskill and Vignes in Los Angeles county, already noticed, were soon followed by others; and in a very few years extensive crops were grown, not only in all the southern counties but also in many of the central and northern ones. It was found that grapes would grow better in California than in any other part of America and, for all varieties, than in any other part of the world. The earliest and only kinds of grapes grown until about 1853 were of two varieties, one said to have been imported from Spain and the other from Madeira. They are what are known usually as "Mission" and sometimes as "Native" or "Californian" grapes. About 1853, when American enterprise began to be directed to the subject, the importation of all kinds of foreign varieties commenced; and experiments proved that there was hardly any kind or quality grown in any clime or on any soil under the sun that would not flourish in California. The excellence of the product of course manifested itself in the wine that was made; and almost at once the state took the first rank as a wine producer. The business is doubtless still in its infancy; yet the yield has already been very large, amounting, as is said, to over four and a half million gallons in 1871. In more recent years, while wine still attracts attention, a very great business has sprung up, and particularly in the large interior valleys, in the production of raisins, which compete favorably with the finest layers of Malaga. The most valuable of the grapes is perhaps the variety known as the Muscat of Alexandria, used for raisins and table purposes as well as for wine. Its yield sometimes reaches nine thousand pounds per acre; and cases have been known of a yield of other varieties of grapes of from ten to fifteen thousand pounds per acre. Within the last few years, since it has been demonstrated that fresh fruit can be successfully carried by railway from California to New York, many car-loads of grapes, as well as other fruits, from different parts of the state have been delivered in eastern cities in reasonably good condition

to have been playing the part of Æsop's old farmer, who induced his heirs to cultivate the orchard he left by telling them that he had concealed a pot of gold in it—with the result that the crop they harvested next season, produced by reason of their digging, not only yielded much more in actual value than a pot of gold but also taught a lesson that was of incalculably greater value to them.¹

At the same time reclamation was started and has been going on to a greater or less extent in various portions of the three million acres of swamp and overflowed land of the state. The time will doubtless come in the not far distant future, and the progress towards it will perhaps grow more and more rapid yearly, when almost all those lands will be reclaimed, as many thousands of acres have already been. The process is comparatively easy; and, as population increases and land becomes more valuable, the necessary expense will be considered a small item. The plan, as it has been pursued with great success in various parts of the country and as well in salt marsh as in fresh water swamp and overflowed lands, is simply to raise a levee or dyke by throwing up the mud high enough to exclude the marsh water. In case of too great saltiness, the ground is freshened by letting it lie until the rains wash out the saline excess. This operation has been sometimes quickened by flooding the land with fresh water from artesian wells or any other available source. As a rule the land will produce alfalfa the second year and abundant crops of grain the third year. In most all cases the yield of these moist lands in alfalfa, timothy and the various grasses has been enormous. Five tons to the acre, worth ordinarily fifteen dollars per ton, has been considered an average crop, while as high as eight tons in a single year has not been uncommon. On Sherman Island near the mouth of the San Joaquin river the land cultivated in wheat has in some cases, according to official reports, yielded as high as eighty bushels per acre.²

Meanwhile the cultivation of grapes, oranges, lemons, limes,

¹Cone's Two Years in California, 100-102, 109.

²Cone's Two Years in California, 102, 110, 111.

of the rain-fall, from nearly a hundred inches near Shasta to from three to five inches at Fort Yuma.¹

The ordinary fruits of the temperate zone, such as apples, pears, peaches, plums, including prunes, and cherries were found to grow so thirsty that the production soon outgrew the demand. An enterprising merchant, who came out from Salem, Massachusetts, in 1849, upon his first return home a few years later, sent out from Boston a number of fruit-trees, including three hundred apples, three hundred pears, two hundred and fifty peach and one hundred and fifty plums, besides raspberries, currants and so on. They were all of the very choicest varieties and were set out with the expectation of realizing profits, because such fruit was almost unknown in the country and the poor specimens that could be procured brought enormous prices. But by the time the new trees came into bearing, so many others had done the same thing and all had thrived so well that fruit was a drug in the market and could not be sold to pay the expenses of gathering and selling it.² From that time the fruit-growers turned their attention to still further improving the qualities of their productions; and, when the enterprise of exporting car-loads of the fresh article to the east and drying the remainder not needed for home consumption, the fruit-growing industry advanced with unparalleled strides. In 1873 there were produced some thirty million pounds of apples, ten million of pears, ten million of peaches, four and a half million of apricots and two million of cherries, and the yield has been increasing ever since; just as the yield during the same year of four and a half million of oranges and a million and a half of lemons has been enlarging ever since, and it will doubtless be a long time before it reaches anything like a limit.³

Improvements in the varieties and qualities of domestic animals as well as in those of fruit-trees commenced also soon after the advent of the Americans and has progressed to a point as far advanced perhaps as any reached in any country in the world.

¹ Cone's Two Years in California, 1-86.

² Peabody's Early Days, &c., 18.

³ Northern California, Oregon and the Sandwich Islands, by Charles Nordhoff, New York, 1874, 183.

The old breeds of horses, cattle and sheep, which were derived from Spain through Mexico, had in the course of time, and on account of want of new blood and ignorance and neglect on the part of breeders, greatly deteriorated; and little or no attention was paid to the subject of betterment. The horses were the mustangs already mentioned, which were tough, inured to rough usage and very valuable for certain purposes, but could not be compared with the Californian offspring of more recent importations, including the racers, famed throughout the world, or the magnificent roadsters or work animals of to-day. In the old Spanish and Mexican times the plan was, instead of the sedulous selection and careful nurture of the present American horses, to divide up the whole body of breeding mares on a rancho into little bodies of twenty-five or thirty, called manadas, and give to each a stallion without much reference to his qualities or value. In a very short time, being in the meanwhile herded in the day-time and corraled together at night, all the mares of a manada would become so accustomed to and apparently so well satisfied with their own stallion, and particularly if he was fierce and war-like, good looking in their eyes and a match for his competitors of the wild pastures, that they would follow him and him alone; and from that time on the whole care of the manada and its offspring was left to him, without interference until the colts were large and strong enough to be lassoed and broken to saddle and bridle.

Under the circumstances much better care was taken than might have been expected, but of course not such as to educate or bring out the best qualities of the horse. The stallions in general were very faithful to the manadas under their charge; and, as the manadas kept distinct and did not run with other manadas, the stallions on their part never strayed or went off. If a strange horse or number of horses approached a manada, the stallion would circle around his mares, keeping them well together in a body, and jealously drive away the intruder or intruders; and this he did month after month and year after year as long as he maintained his position and ascendancy. It was usual to cut off the hair of the tails and manes of the mares and use it for making halters, bridle-reins and ropes—the hair of the

manes being considered the finest and best and used for the most particular kinds of braids—but this hair-cutting was never practiced upon the stallions for the reason, as expressed by Don Domingo Peralta, one of the old rancheros, that “*las yeguas los aborrecén*—the mares would abhor them” as deficient creatures stripped of their masculine beauty. The mares, as a rule, were not ridden; at least a gentleman or a lady would never be seen riding a mare; but in the summer time, when grain was cut for harvesting, large numbers of mares were employed in trampling and threshing it out. Sometimes a hundred or more were employed at a time. On such occasions, while the mares were at work on the threshing floor, the stallions were separated from them and kept in different corrals for they could not be kept together. At the end of the day, when the work stopped and the mares were let free, the stallions would also be turned out; and each would immediately proceed to separate his own manada from the others, and the mares recognizing their own leader and champion would flock round him. On the other hand the stallion, when separated from his manada and confined in a corral, would stamp and kick and jump and plunge and neigh and squeal and in every way manifest the greatest uneasiness and anxiety until restored to his company.¹

When the Americans came all this was changed. The horses that were brought across the plains by the early immigrants were in almost all respects, except perhaps toughness and endurance under rough usage, far superior to the mustangs; and these early American draught and riding horses were in a few years supplemented with the best blood that could anywhere be procured. A large part of the increasing agriculture of the country was specially directed to the raising of grain, hay and other food for horses—a thing never thought of in the old Spanish and Mexican days. Barns also had to be built for the storage of hay, grain and other horse-feed and stables for the convenient keeping, feeding and sheltering of the horses themselves. The barns and stables and hay-fields introduced a new feature into the country landscape. In the very early days a ranch-house was almost invariably built in a naked plain or on a treeless

¹ Davis' *Sixty Years in California, &c.*, 50-52.

slope, instead of in one of the delightful groves or shaded nooks scattered around on every side; and there were no groves or trees or outhouses near them. The reason usually given was that the sites chosen afforded the best security against attacks by Indians;¹ but the facts that the old Californians loved to lie and bask and stretch in the sun, that they were not accustomed to raise and could not appreciate either trees or even gardens, and that they had no use for outhouses are perhaps a better explanation for their practice. The barns and stables and accumulating manure heaps encouraged garden and tree planting and in a few years nearly every farm-house was surrounded with groves and green bushes. American horses also had to be shod and wagons made and roads built; and thus by rapid degrees the country changed its aspect from the old, idle, backward Spanish type to the new, active, bustling and progressive American type. And one of the results of the reciprocal benefits, which the American horse has bestowed upon California and California in return has bestowed upon the American horse, is the extraordinary attention devoted of late years by the Californian people and particularly those of wealth and leisure to, and the extraordinary success on the principal courses of the world achieved by, Californian racers and fast trotters.

The old Spanish cattle were long horned and fierce and almost as tough as the horses. They also ran wild like the mustangs and were never stall fed. They were in fact never brought up except to be branded or slaughtered; and no one was safe in going much amongst them except on horseback. In their struggle for existence those chiefly survived, which were best able to escape the assaults of bears, cougars, wolves and coyotes and find food and water in periods of drought. They were handled chiefly with the lasso or reata thrown by a mounted vaquero, as has already been mentioned; but sometimes among a fierce herd was to be found a particularly obstinate or unruly animal, usually a bull or steer, which, watching a favorable opportunity, would dart away at full speed and for a while create great confusion. The vaquero, however, was in general on the alert; and, knowing his duty and being mounted on a horse that under-

¹ Davis' Sixty Years in California, 80.

stood exactly what was expected of him, he immediately dashed after the runaway. It required but a few leaps to come up alongside, when the vaquero, by a dexterous movement, leaning over his horse, would seize the flying animal by the tail and, urging his steed to an extra effort and dashing forward and giving the tail a peculiar twist and jerk at the right moment, would send the animal rolling over and over on the ground. By the time it regained its legs it was usually completely subdued and tamely submitted to be driven back to the herd; and it was seldom or never necessary to repeat the treatment a second time. This was what the Spaniards and Mexicans seem to have designated by the provincial name of "coliar;"¹ but, since the so-called old Spanish cattle have almost everywhere given place to tame and more easily managed American animals, there is little need of it and the practice is now almost unknown.

Cattle in those old days, as has been stated in treating of the missions and old ranchos, were valued chiefly for their hides and tallow; but since the advent of the Americans their chief value is for beef and dairy purposes; and this change has caused as great and complete a difference in the kind and quality of the animals raised and the manner of their feeding and treatment as has been noticed in reference to the Californian horses of the present as compared with provincial times. The very best of breeds have rapidly been evolved by judicious selection and careful attention; and the large dairy farms, with their enormous yields of milk, butter and cheese of the best quality, and the extensive cattle ranches, though perhaps not so large as some, certainly in proportion to size compare favorably with any in the world. It is true that the improvement of the human population on the large cattle ranches did not keep pace with that of the cattle; but even in this respect the advance was rapid. At first, the population of American vaqueros or cowboys was to a great extent wild, rough and disreputable; there were amongst them no schools and no refining influences; no morals or manners; very few wives and little or no care of children. In the upper part of the San Joaquin valley, for example, before it was ascertained that every acre could be grown thick

¹ Davis' Sixty Years in California, 42.

with grain or vines or fruit trees, the cattle men were supreme. Their herds wandered over a million acres; their will was the law; their vaqueros were the ministers of their commands and their voice made up the public opinion of vast regions of country. But in the course of a few years the railroads penetrated the wilderness; crowds of farmers followed; agriculture and horticulture spread in every direction; and the face of the country, apparently cursed and blasted except in favored spots and in special seasons of the year, began all over to change into gardens and green fields, dotted over with towns and villages and country homes.¹

Improvements in the breed of sheep also commenced early and were as rapid as those of horses and cattle. The old Spanish stock of the missions was of little account. Their wool was worthless for export and fit only for the rough and coarse garments intended for the use of the Mission Indians. Nor did their flesh make palatable mutton. One of the first men to bring out improved stock was W. W. Hollister of Santa Barbara, who in 1853 drove a flock of three hundred across the plains; and he used to say that every one of those sheep earned him a thousand dollars before it died. He had come from Ohio in debt; but in the course of twenty or thirty years he became a millionaire, the owner of over a hundred thousand acres of land and one of the largest sheep owners in the state.² Wilson Flint, formerly of Maine, was said to have driven out from one of the western states the first flock of fine sheep introduced into California; and he also, like Hollister, became a large sheep owner and very rich man.³ In 1850 California produced about five and a half thousand pounds of wool; in 1873 it produced twenty-four million pounds; and the output has been continually increasing since.⁴

With the improvement in horses, cattle, sheep and other domestic animals, in all of which California very rapidly grew to occupy a front rank, must also be included poultry, though it seems that, at least until recently, eggs could be imported and

¹ See Nordhoff's California: For Health, Pleasure and Residence, 192-198.

² Nordhoff's California: For Health, &c., 125.

³ Peabody's Early Days, &c., 12.

⁴ Nordhoff's California: For Health, &c., 182.

sold cheaper than those raised in the country—a fact so curiously different from the case of butter, which could be sent to the eastern states and sold at a profit.¹ The reason of this probably was the richness and extent of the dairy lands in California on the one hand, while on the other hand there was a very limited number of farmers who were willing to devote time and attention to the raising of poultry. And yet eggs in the early days were very dear; and it would have seemed as if there was great encouragement to produce them. The clipper ship John Bertram, said to be the first clipper expressly built for the California trade, arrived on its first voyage in the summer of 1851 and among other things brought out ten thousand dozen eggs, which sold for ten thousand dollars.² Some persons indeed recognized the importance of the business. At Marysville about 1851 very ordinary hens were worth five dollars apiece. A lady of that place, who desired to raise chickens, gave the following account of the difficulty she had in procuring a rooster. An old Spaniard came to her house one day, who she knew had fowls to sell; but the trouble was to make him understand what she wanted. She could not speak Spanish; and he could not understand English. She was very much perplexed and used every word she could think of that sounded like Spanish. But without success. He only looked at her in blank astonishment. Suddenly a bright and original idea suggested itself. She sprang upon a chair, flapped her arms and crowed with all her might. The flapping and particularly the crowing enlightened the Spaniard more than the whole of her Spanish vocabulary.³

Another story of the same year 1851 and of the same city of Marysville showed that the country was very favorable for raising poultry. A lady, who lived in a canvas shanty, was one day surprised to see an old yellow hen come in, hop upon her bed and lay an egg. The hen seemed to understand it was not exactly the right thing to do and therefore was very secret about it and did not cackle. But the lady was exceedingly glad, for the reason that eggs were worth fifty cents apiece at that time; and she there-

¹ Nordhoff's California: For Health, &c., 178.

² Peabody's Early Days, &c., 17.

³ Mrs. Bates' Incidents on Land and Water, &c., 229, 230.

fore fed the hen. The next day the hen came again and left another egg; and so kept on day after day until she had laid twelve. She then manifested a desire to sit. The lady managed to procure an old barrel, which she fixed in one corner of her house and depositing in it a dozen eggs, which she was satisfied would be sure to hatch, she placed the hen upon them. In due time a dozen healthy and active chicks made their appearance, which a month or two afterwards she sold for broilers at the rate of a dollar each. The hen then laid another nestful of eggs and hatched another brood. By that time, the lady having occasion to give up her shanty and go to the Tremont House to board, sold the old hen and her barrel for twenty dollars. Not very long afterwards, upon entering her room in the hotel one warm day, when the window was open, she was again surprised to find the old hen as a visitor and appearing very much delighted to see her former acquaintance. The next thing was to hunt up the person who had purchased her; but he had moved away and could not be found. Under the circumstances the lady again took charge of the hen and, as she could not keep her in the hotel, placed her on a ranch, where she laid eggs and raised chickens enough to make the sum realized by the lady forty-five dollars. By that time, however, the hen began to show signs of age, but the lady managed to sell her again—this time for five dollars—thus making in all a very fine return for care and attention, even in a small way, to the poultry business.¹

¹ Mrs. Bates' Incidents on Land and Water, &c., 230-232.

CHAPTER XI.

TREATMENT OF INDIANS.

THE treatment of the Indians by the Americans in general was no better and perhaps not much worse in California than in other parts of the United States. The missionaries, as has been seen, however much they themselves enslaved the natives and whipped them into the church, were always solicitous to preserve their lives and protect them against the cruelty and injustice of others. And even after the missions had been secularized, the influence of their teachings remained; and, though occasionally brutal Mexican officials would on the slightest pretext butcher whole rancherias, yet as a rule the Indians, degraded as they might be, were looked upon as fellow human creatures and entitled to rights as such. The American and other foreign immigrants, who came to the country previous to the American occupation in 1846, acted towards the Indians in the same manner as the old Californians; and in this respect at least little or no fault is to be found with them.

Almost all the old Californian families and the families of foreigners, who lived in the country as well, had Indian servants in their houses and on their ranchos. These were sometimes supplied by the favor of the priests from the missions and sometimes were captives taken in raids upon the unchristianized aborigines known as gentiles or cimarrones. It had become a not unfrequent practice of the Spanish soldiers and of the Mexicans afterwards, when sent on expeditions against hostile rancherias, to gather up all the children they could seize and distribute them among their friends as domestics. Some of the priests occasionally expostulated; but the practice continued; and in too many instances—and not less frequently after the American occupation and by persons calling themselves Americans than in

Spanish and Mexican times—expeditions were gotten up on various false pretexts for the main purpose of stealing Indian children and supplying the market for Indian servants. These servants were not slaves in the eye of the law, though they were little else in fact. They were not worked in gangs under the eye of a taskmaster—the missions alone had the monopoly of that kind of business—but they were expected to obey the commands of their masters; and, in case of disobedience, they were severely flogged. They grew up expecting nothing less, though in many cases they were affectionate and as faithful as it was possible for slaves to be.

There is hardly a portion of the state in which there have not been some of these Indian servants and in which there are not told anecdotes about their good nature and in many cases of their devotion to their masters. Among other old families, the Estudillos of San Leandro in Alameda county had an Indian servant, called Juan José, who had been taken as a child and reared by them as a domestic. He had to be whipped occasionally; but he accepted his stripes as a matter of habit and made no attempt to run away. In 1889 he was still in the family at the ripe age of about seventy years. But perhaps the most interesting, and certainly the most amusing, story about these Indian servants was told of one in the family of Captain Thomas M. Robbins of Santa Barbara. At a dinner party at Robbins' house in 1842, some remarks having been made in reference to the excellence of the cooking, the host answered that it was done by an old Indian, who had been with him for many years. In further explanation of the good dinner, he went on to say that he had instructed his cook very carefully and that the cook was faithful and obedient but had an idea that it required a severe thrashing every six months to keep him up to his work and make a good Indian of him. This, Robbins did not want to inflict; but the Indian insisted that it was necessary and must be done: otherwise he would get lazy and negligent. The strange statement seemed hardly credible; and it appears likely that Robbins observed an imperfectly concealed expression of doubt on the faces of his guests. At any rate he sent for the cook, who presently made his appearance—a strong and stalwart man, well preserved for his age, with a pleasant cast of countenance

for an Indian, and polite in his manners. Robbins, addressing him in Spanish, said, "I have been telling my guests here that I have had to whip you soundly, but against my will, about once every six months, because you desired and persisted in having it done, so as to make a good cook of you for the next six months. Is it so?" The old fellow looked sharply at the guest for a moment and answered, "Es verdad, Señores—It is true, sirs." A roar of laughter followed him as he retreated to the kitchen; and he himself laughed as heartily as the others.¹

Though as a class lazy, filthy and degraded, the Indians, and particularly those of the mountain bands, were not unintelligent. As to their capacities for education and civilization, it is difficult to speak with certainty, for the reason that they can hardly be said to have been afforded an opportunity of showing what was really in them. Such teaching as they received at the Missions or what was called christianizing them, though well enough intended, was not calculated to improve them. On the contrary it destroyed every spark of spirit and rendered it impossible for aspiration to find lodgment in their minds. The United States reservations have not been in any respect much better; and in some respects they have been much worse. With few exceptions they have been managed by politicians and place-hunters; and in some, if not in most cases, the vagabond teachers employed there were a poor substitute for the missionary fathers. Among those Indians, who were brought up among the whites as servants, there were many instances of marked intelligence and very affectionate and faithful conduct. Though no full-blooded Californian Indian, so far as known, ever became a scholar or was fit to become an alcalde, it did not follow that it would have been impossible if they had had the proper opportunities. All the missions counted among their neophytes good workmen and some excellent mechanics; almost every ranchero had skillful Indian vaqueros; and among the various items that go to make up the diaries kept at Sutter's Fort from September 9, 1845, to May 25, 1848, not the least interesting are those about faithful and responsible labors performed by Sutter's Indians. There was no attempt at that place to christianize or to teach more

¹ Davis' Sixty Years in California, 174, 175.

than was necessary to do the work required; and, so far as the general mass of the two or three hundred Indians congregated there was concerned, there was anything but elegance in the style of living. An eye-witness described their manner of feeding by saying that long wooden troughs inside the walls were filled morning and evening with a kind of boiled mush made of wheat-bran, and that the Indians, huddled in rows upon their knees before these troughs, quickly conveyed their contents with their hands to their mouths.¹ But among the Indians at the fort, though they probably lived in better fashion than the common herd, were quite a number who were intrusted with very important duties as mechanics, vaqueros, sailors, boatmen, fishermen and laborers of various kinds among the multitudinous branches of business carried on by the busy Swiss.²

Notwithstanding occasional military expeditions against rancherias, in which more or less cruelty was exercised, the old Californians and such foreigners as recognized old Californian laws and customs were as a rule kind and considerate towards the Indians. But many of the Americans, who poured into the country after 1845, either as soldiers or squatters, paid little or no respect to the Indians or their rights. They not only pursued Indian aggressors and on such occasions killed all the Indians they could meet; but they frequently murdered in a spirit of wanton cruelty without having received any injury whatever. It can not be doubted that in some cases there were genuine Indian aggressions and depredations; there were unquestionably cases in which Indians, not in a spirit of retaliation but with the sole object of plunder and fiendishness, committed thefts and robberies and even murders. But in general no Indians ever attacked the whites without cause; and none certainly ever exhibited such an utter want of feeling and humanity as some of the whites. There were particularly some of the frontiersmen, and especially certain Oregonians, who seemed to look upon Indians as no better than wild cats and coyotes and shot them down whenever they got a safe opportunity. Well-authenticated instances of this kind of conduct on the part of the whites were

¹ Johnson's California and Oregon, &c., 132.

² New Helvetia Diary, MS. in Library of California Pioneers.

plentiful, while hardly a single case of reported aggression on the part of the Indians did not turn out on investigation to be largely if not entirely false.

Lieutenant Wise of the United States navy, who visited California in 1847, repeated a conversation he had had with a trapper, recently from Oregon but then belonging to the California battalion. This man had apparently been traveling with a partner called Pete, having a mule between them, and one afternoon, on their way from Oregon, got into a fight with Indians. In a vein of bravado, patting his old rifle Ginger as he had christened it, he boasted how, when the Indians had shot an arrow through his leg and ham-strung his mule, he and Pete had revenged themselves by lying in wait and shooting the first red-skin that made his appearance. "I just fetched old Ginger up," he said, "and drawed a bee-line on his crotch; and I give him sich a winch in his stomach that he dropped straight into his tracks—he did! In five jumps I riz his hair; and Pete and me warn't troubled ag'in for a week." It is not unlikely that he "riz his hair," as he termed scalping, because, as he said, he had got very angry on being hit with the arrow. But at the same time he let out the reason of the attack. To use his own language, "I riled, I did; though we'd had tolerable luck in the forenoon; for I dropped two and a squaw; and Pete got his good six!"¹ Daniel B. Woods, of Woods' Diggings in Tuolumne county, described the return of a party, which had gone out in pursuit of Indians from that place in the winter of 1849–50. They came back late at night, having with them the scalp of an Indian, whom they had decoyed into an ambush. After taking the scalp, they had mutilated the body and then dragged it around with ropes made fast to the pommels of their saddles. On coming into the settlement, though almost too drunk to keep their seats, they hurrahed and howled, fired their guns and pistols and made night hideous generally.²

J. M. Letts, who visited the mines on the South Fork of American river in the summer of 1849, said that one day he came across the bodies of three Indians lying in a trail not far

¹ Los Gringos, &c., by Lieut. Wise, U. S. N., New York, 1850, 51, 52.

² Woods' Sixteen Months at the Gold Diggings, 112.

from Hangtown. Two had been shot through the chest and the other through the head. And in explanation he went on to say that the first man he met after he arrived in the interior was an Oregonian on horseback, armed with a revolving rifle and in search of Indians. This man said that he had had a horse stolen and that he presumed it had been taken by the Indians; and he swore that he would "shoot the first red-skin he met." Letts added that he had no doubt the Oregonian kept his word, though the chances were ninety-nine out of a hundred that his horse had been stolen by a white man; and he made no question that the three bodies referred to were those of Indians who had been wantonly shot and killed while walking peaceably along the trail.¹ It was probably this same Oregonian that was mentioned by Dr. James L. Tyson as having gone out from Dry Diggings one morning in the summer of 1849 to shoot an Indian whom he charged with stealing his horse. Tyson said that the day before he had been called to see an Indian whose head had been shockingly cut by an Oregonian, whom the Indian had accompanied into California. It had been a custom with various whites to employ parties of Indians to work for them; and very often they had made out of their labor and for very paltry pay as much as ten, fifteen and sometimes twenty thousand dollars. These times, however, had gone by and most of the Indians had been driven, chiefly by the Oregonians, into the fastnesses of the mountains; and a war of extermination was waged against them. This particular Indian, as it appeared, had been employed by the Oregonian, but had made up his mind to leave and was about doing so, when his employer struck him with some heavy weapon and felled him to the earth.²

An account of John Greenwood, a rough character from whom the town of Greenwood in El Dorado county derived its name, will still further show the manner in which Indians were treated by some of the whites. He had been a trapper in the Rocky Mountains and married a squaw of the Crow nation. His eyesight having become impaired on one of his hunting trips, his wife prevailed on him to go to St. Louis for treatment and herself

¹ Letts' California Illustrated, 111, 112.

² Tyson's Diary of a Physician in California, 62, 63.

paddled the canoe down the Yellowstone and Missouri rivers several thousand miles. He then settled in Missouri and remained there until two of his sons ran off and married; and soon afterwards the whole family made its way to California and settled at Coloma. His wife was dead but there were five sons with him, three of them dark-skinned and looking like Indians, one of whom was called Governor Boggs. Of the other two, one called young John was tall and robust, with regular features, clear dark eyes and luxuriant hair; and the other called David Crockett was lithe and muscular with blue eyes and Saxon complexion; and both were fine specimens of daring and reckless frontiersmen. Theodore T. Johnson, who furnishes these particulars, visited the Greenwood cabin at Coloma about the middle of April, 1849, attracted to it by the sound of a violin. The cabin consisted of an inclosure of upright logs or slabs, about ten by fifteen feet in area and roofed with the same kind of material. Upon looking in, Johnson found young John seated on a saddle on the ground in one corner, while the other corners contained the ever-present rifle and two or three rough shelves filled with bottles of liquor and drinking cups of nearly every shape and variety. On the day after this visit, a war party of ten or twelve men, including young John and David Crockett Greenwood, started out, well mounted, to attack a neighboring rancheria of Indians for the purpose of avenging, as was said, the murder of several Oregonians. As the volunteers galloped away from the cabin, which was the general rendezvous on such occasions, old Greenwood shouted after them, "Be sure, boys, and bring me a squaw!" while a bystander in a jocular tone added, "Bring me a scalp!" The next morning Johnson heard the old man storming around his cabin, bare-headed, as he generally was, cursing and swearing like a madman. Upon being asked what the matter was, he answered, "They say the Indians have killed my son; but it's a lie—an infernal lie. They can't kill John Greenwood. He's a brave boy and they can't kill him, I say. I've lived among Indians all my life. I know the varmints and they know me. Shot over a hundred of them in my time—shot ten in this valley and ain't done with the bloody villains yet." And so far as young John not being killed was concerned, he was correct. A

very short time afterwards the whole mounted party rode up and young John, as he passed by, unloosing from his saddle-bow an Indian scalp—the long, black, bristly hair clotted with blood and tied with a leather string—flung it towards Johnson's tent. Upon inquiring as to the general result of the expedition, it was ascertained that the party had killed a number of Indians, made many prisoners, burnt the rancheria and carried off a quantity of gold-dust that was found there.¹

Upon further inquiry it appeared that the rancheria was a large one on Weber creek; that when it was attacked some of the Indians showed fight while others attempted to escape; that twenty or thirty of them had been shot down and killed; and that the capitanejo or chief man of the village had fought until shot three times, rising after each shot and discharging his arrows until he fell dead, whereupon he was scalped and beheaded. There were about thirty captives taken; and, after fire was set to the rancheria, they were driven off in a forlorn band, men, women and children, to Coloma. There a grand revel in celebration of their achievement took place among the participants in the expedition and their friends. In the course of the day a sort of trial took place; and all the prisoners were released except seven men and a few squaws—one of them probably for old Greenwood. It did not appear, and it was not likely, that the men, so retained, had anything to do with the murder of the Oregonians; but they were able bodied and might feel like retaliating. It became a question what to do with them. There was nothing to execute them for, but it seems to have been settled that they must be killed for something. Accordingly, just before sundown, they were brought out in the presence of the armed crowd and ordered to march in a certain direction. They had not gone far, however, when, as had been anticipated, they commenced to run, whereupon the aim of twenty mountaineer rifles was upon them; and the next moment five of the seven fugitives lay dead and one mortally wounded. Only one escaped; and, if he never retaliated, it was not for the reason that he had no cause.²

¹Johnson's California and Oregon, 157, 158.

²Johnson's California and Oregon, 170-183; Buffum's Six Months in the Gold Mines, 100, 101.

Under the circumstances, it is not to be wondered at that the Indians were very much afraid of the whites. But even fear and flight did not always save them from slaughter. An instance was related as having occurred in 1848 of a white man, who while looking for a lost horse called to an Indian boy to help him. The boy, not understanding what was wanted and being frightened by the peremptory language, started to run; but was instantly shot dead by the heartless brute who had assumed to command his services.¹ Bayard Taylor stated that in 1849 he took occasion to inquire into the particulars of a then recent fight between the whites and Indians at Volcano in Amador county. It appeared that the Indians had discovered the placers there and were digging when the white men arrived. They at once made room for the newcomers and proposed that they should all work together peaceably. For a few days things had gone on well enough, when one of the white miners missed his pick and accused the Indians of stealing it. The chief man of the Indians, on being informed of the accusation, declared that if the pick was in their camp, it should be brought back at once and started to make a search for it. Instead of walking, however, he ran; upon which one of the whites raised his rifle and shot him. Upon this the other Indians armed. The whites concerned called together all the miners and told them that they had been attacked and one of their number killed; and the miners thereupon made a general assault upon the Indians and drove them off. Not long afterwards a white man was found in the neighborhood pierced with Indian arrows; and for some time the country round about Volcano was dangerous ground for anybody that was not well armed. But finally upon the facts above stated becoming known, the miners met again and banished the scoundrels who had placed the community in peril.²

Alonzo Delano related that in the spring of 1850, at a camp on the middle Fork of Feather river, the miners one day missed several head of oxen; and, as it had become common to charge every theft of cattle upon the Indians, a cry to that effect was raised and a call made for vengeance. Accordingly a party of

¹ Johnson's California and Oregon, 188.

² Bayard Taylor's El Dorado, 247, 248.

fifteen men armed themselves and marched to a rancheria about twelve miles higher up in the mountains. There they found a few bones, which they seem to have considered proof positive that the inhabitants had stolen their cattle. They immediately surrounded the village. The Indians, upon coming out and seeing the hostile attitude of the whites, without understanding the cause of it, with the instinct of self-preservation attempted to fly. They were followed by a discharge of all the fire-arms; and fourteen of them fell dead. After next demolishing all the huts and feeling the glory of having taken due and signal vengeance on the mountain robbers, the whites set out on their return. When they had nearly reached their camp, they found all their oxen, which they had supposed stolen, quietly feeding in a somewhat isolated valley whither they had strayed in search of grass.¹

In the summer of 1849 the Yuma Indians, having in some manner obtained an old scow, established a ferry across the Colorado river, about four miles below the mouth of the Gila, and derived quite an income from aiding emigrants on the way to California. A party of Americans, seeing a prospect of a lucrative business for themselves, dispossessed the Indians of their boat, drove them from the river and would not permit them to help emigrants across or otherwise aid them in any way. The leader of these Americans was said to be a Dr. Langdon of Louisiana, and his chief employee was one John Glanton, a rough fellow who acted with great brutality towards the Indians and practiced all sorts of impositions and extortions upon travelers. This Glanton, after some ineffectual attempts on the part of Langdon to get rid of him, had occasion to visit San Diego, apparently with the object of laying in supplies; and while there he and his party got into a fight, in the course of which a man was killed. Glanton was arrested and imprisoned; but he managed to break jail and with his party and a supply of liquor succeeded in getting back to the Colorado river. But upon reaching the ferry, on April 23, 1850, and while he and his men were lying asleep either from the effects of drinking or fatigue, the Indians, who had been watching their opportunity,

¹ Delano's Life on the Plains and among the Diggings, 311.

rushed upon them with clubs and massacred everybody at the ferry, some twelve or fifteen persons in all. They also seized upon all the money they could find, estimated at from fifteen to twenty thousand dollars. No special sympathy was felt for the men who had thus lost their lives; but the circumstances tended to encourage the Yumas to many acts of violence against innocent and unoffending parties; and more than one band of emigrants was treacherously murdered, sometimes by the Yumas and sometimes by neighboring tribes who either shared in the feelings of the Yumas or had independent causes of hostility.¹

It was not unusual in their attacks upon emigrants coming across the continent by way of the Gila river for the Indians to kill the entire party, without exception. This was the common practice of the Apaches, from which circumstance they got the name of being the fiercest and most merciless of all American Indians; but the Yumas and other tribes along the Gila were not much better. Sometimes, however, even the Apaches took prisoners. A remarkable instance occurred in the spring of 1851 on the Gila river about ninety miles east of the Colorado. Among the emigrants was a family, named Oatman, consisting of the father, mother and seven children, who were on their way from Illinois, having two wagons drawn by oxen and carrying a variety of merchandise and household goods. It appears that they had traveled in safety as far as the Pima territory, having formed part of a train large enough for mutual protection; but at the Pima villages, Oatman, against the advice of the other emigrants, set off in advance for Fort Yuma. Some days afterwards one of the children, a boy named Lorenzo, about fourteen years old, made his appearance among the emigrants remaining at the Pima villages in an almost dead condition. He reported that his party had been attacked by Indians; his father, mother and four of the children killed, and two sisters, one of whom was fifteen and the other about seven, carried off. He himself had been struck down by the savages and left for dead. After lying some time, he revived. Upon looking around, he saw the mangled bodies of his parents, two brothers and two sisters near the plundered wagon; but his sisters Olive and Mary were gone.

¹ Bartlett's Personal Narrative, 174-176.

He had at once started back for help; and, as it afterwards appeared, he traveled before getting back to the Pima village a distance of about seventy miles, and forty-five of them over a desert without water. The emigrants immediately resumed their journey, taking the boy with them, and on reaching the scene of the disaster found the remains of Mr. and Mrs. Oatman and four children, which they covered with stones, but could find no trace of the girls named. They then proceeded to Fort Yuma and there informed Major Heintzelman, the officer in command, of the occurrence.¹

Heintzelman, not long afterwards, dispatched a party of soldiers with orders to search the country and if possible recover the missing girls or find out what had become of them. The soldiers started out and remained away considerable time; but they discovered no traces of the girls; nor was anything ascertained for some years as to their fate. But in the latter part of 1855, it being ascertained that there was a white female captive among the Mohave Indians on the Colorado river opposite the mouth of the Mohave, efforts were at once instituted, principally by a private gentleman, a carpenter named Grinell of Fort Yuma, to rescue her. By the employment of a skillful and faithful Indian messenger and with some expense for presents to the Mohaves, he succeeded in securing the release of the captive, who about the end of February, 1856, was brought to Fort Yuma and proved to be Olive Oatman, then about twenty years of age. It appeared from her narrative that the Indians, who had attacked the party, were Apaches and that, after the massacre, they had compelled her and her young sister to go with them over three hundred miles to their villages between the San Francisco and Salinas rivers. There they had been kept as slaves and compelled to do manual labor for a year, when they were sold to the Mohaves and compelled to walk as before over three hundred miles to their villages on the Colorado. The Mohaves treated them a little better than the Apaches; but in the course of another year the youngest girl, Mary, died of hard work and insufficient or improper food. Both girls, soon after their arrival among the

¹ Captivity of the Oatman Girls, &c., by R. B. Stratton, San Francisco, 1857; Bartlett's Personal Narrative, &c., 203.

Mohaves, had been tattooed on the chin like Indian children; but they continued to be held as slaves and kept at slavish labor. No insult or outrage, however, was ever offered them either among the Apaches or the Mohaves.¹

In the meanwhile Heintzelman, though unsuccessful in finding the Oatman girls, had been at work against the Yumas and, in the course of a couple of years after the killing of Glanton and his party, had them under management. Various emigrants and some soldiers lost their lives, but the Indians were at length driven from the banks of the rivers and their villages and corn fields destroyed. No attempt was made to temporize; but they were pursued with a firm and determined hand until themselves compelled to come in and sue for peace; and the result was a treaty that they knew better than to break; and from that time forward, so far at least as they were concerned, though they were allowed to again occupy the rich bottom lands of the rivers and cultivate their wheat, corn, melons, beans and other vegetables, the whites could pass and repass as they pleased with perfect safety and no interference.²

United States officers in general, though always ready, when properly called upon, to march against the Indians and not unwilling in some cases to carry on war to extremities, understood very well that almost every case of so-called Indian aggression and Indian depredation was provoked by the whites. Some of them did not hesitate to express their opinions. In January, 1850, within little more than a month after turning over the governorship of California to his successor, General Bennet Riley, speaking of complaints of emigrants about Indian depredations on the Colorado and Gila rivers, said he was satisfied they had been greatly exaggerated and that, when they occurred, they had been prompted by previous aggressions by thoughtless or unprincipled whites. About the same time, he said, in reference to reported Indian aggressions at Clear Lake, that, like almost all other cases that had occurred in the country, they had been prompted by the desire of the Indians to be avenged for previous outrages committed against themselves. And in the same con-

¹ Captivity of the Oatman Girls, *passim*.

² Bartlett's Personal Narrative, &c., 173 and note.

nection, he took occasion to observe that, in view of the immense emigration that was spreading itself over the valleys of the Sacramento and San Joaquin rivers and their tributaries and its character, if troops were required at all, it would be rather for the protection of the Indians against the whites than of the whites against the Indians. A few weeks afterwards Lieutenant-colonel Joseph Hooker, then adjutant-general at Sonoma, found it necessary to recommend to General Riley that, in a proposed expedition to Clear Lake, citizens should not be allowed to bring away any captives as prisoners; because, if they were, the expedition would only be made a pretext for getting servants upon their ranchos and in their houses.¹

In their business dealings with the whites, and particularly in the mining regions, the Indians appear to have been very careful not to provoke ill-will or anger. When there was cheating or dishonesty, it was as a rule all on the other side. Not that they were specially honest, perhaps, but they could not afford to run the risk of being dishonest. They were in fact very punctilious in paying for what they got; and very often paid much more than an article was worth. William R. Ryan, who mined on the Stanislaus river in the latter part of 1848, said that one evening a party of Indians living not far distant came to his camp and one of them, pointing alternately to his mouth and to a bag of flour lying near by, manifested his desire to have some. Upon being given a small quantity, perhaps about a pound, which an accompanying squaw folded in her apron and tied about her waist, the Indian handed back a piece of gold worth from five to six dollars.² E. Gould Buffum, who mined at Weber creek in the early part of 1849, said he was much amused to see the Indians there making purchases. When gold was first discovered, they had little or no conception of its value and would readily exchange handfuls of it for any article of food they might desire or any old garment gaudy enough to tickle their fancy. By degrees, however, they learned better and were more careful. At the time spoken of, when they desired to make purchases from a trader, they would usually go in a party of ten or twelve

¹ Ex. Doc. 31 Con. 1 Sess. S., No. 52, 56, 63, 74, 84.

² Ryan's Personal Adventures, &c., Vol. II, 41, 42.

and range themselves in a circle, sitting on the ground, a few yards distant from the store. Then each one, in a certain order of precedence known only to themselves, would proceed to the counter, carrying in the palm of one of his hands a small leaf or piece of paper, on which was perhaps a teaspoonful of gold-dust. He would then point first to the dust in his hand and next to the article he desired and utter a peculiar grunt, "ugh!" which was understood to mean an offer. If the trader shook his head, the Indian retired and presently returned with more gold-dust; and he continued going through the same ceremony repeatedly until a sufficient amount was offered, when the dealer would accept the dust and hand over the coveted article. The only conceivable reason for this strange mode of procedure, according to Buffum, was that the poor creatures had been so frequently cheated and plundered that they were afraid to trust themselves alone with a white man with too much gold upon their persons. Another peculiarity, pointing in the same direction, was that, if they should, for instance, purchase half a dozen biscuits for a teaspoonful of gold and want several dozen of the same kind, the purchaser would not buy them at once but would return with another teaspoonful of dust and take away another six biscuits and so on repeatedly until he had obtained the desired quantity.¹

The want of faith manifested after a very short experience by the Indians towards the whites and the consequent loss to those who had been taking advantage of their ignorance to fatten on their labors, were shown in a very novel but significant manner in 1849 by the talk of a woman, evidently from some frontier settlement, who had squatted on the Cosumnes river. She had been in the country for three years and was therefore a pioneer of the pioneers. Like some others, who came a little earlier than the mass of immigrants, she seemed to think that the forty-niners had done her an injury by coming at all. "Afore them here immigrants come," said she, "the Ingins were as well behaved and bidable as could be. I liked them more'n the whites. When we begun to find gold in the Yuber, we could get 'em to work for us day in and day out for next to nothin'.

¹Buffum's Six Months in the Gold Mines, 93, 94.

We told 'em gold was stuff to whitewash houses with and gave 'em a hankercher for a tin-cupful. But, after the immigrants begun to come along and put all sorts of notions into their heads, there was no getting them to do nothin'!"¹

But it was not alone the lower strata of the American immigrants of the early mining times that treated the Indians badly. There were a number of persons of cultivation and high position, particularly men from the then frontier western states, who had no sympathy for the Indians or, if they had, they at least never showed it. As an example, even Peter H. Burnett, the first governor of the state, who came to California from Oregon and had previously lived in Missouri, though by nature a humane man, seemed unable to see any good in the Indians or to think that they had any right to live. Had his opinions been published merely as those of an individual they might not have attracted attention. But he expressed them not only as governor but in the most deliberate form in which he was authorized under the constitution to communicate his views. In his annual message to the legislature on January 7, 1851, referring to the Indians, he spoke of them as making predatory attacks and committing robberies and murders at many different points all along the frontier line, and had not a single word to say about how badly they had been treated, about how they were being hunted and shot down on every side like wild beasts, or about any duties of kindness or protection owing to them by the government or the community. On the contrary he said, though with "painful regret," that a war of extermination would continue to be waged until the Indian race should become extinct and that it was beyond the power or wisdom of man to avert the inevitable destiny.²

If there was to be a war of extermination against the Indians, and if neither the power nor wisdom of man could avert it, there was of course no use for the governor to resist inevitable fate. And he did not make any such attempt. On the other hand, though he felt satisfied that the people of every section of the state were able to do their own share of extermination or, as

¹ Bayard Taylor's *El Dorado*, 268.

² *Journal Cal. Legislature*, 1851, 15, 16.

he termed it, to defend themselves, and had made up his mind to refuse in every case to send state troops to assist them, yet in two instances he deviated from his rule. The first instance was on June 1, 1850, upon receipt of news verified by depositions of the Glanton massacre near the junction of the Colorado and Gila rivers, already mentioned, on which occasion he ordered the sheriff of Los Angeles county to enroll forty men and the sheriff of San Diego county to enroll twenty and place them under the command of Major-General Bean of the state militia to march against the Yuma Indians. The number of troops was soon afterwards ordered to be increased to one hundred; but the citizens of Los Angeles and San Diego counties seemed to consider Glanton and his party not unrighteously served and were not in favor of the expedition; and it turned out to be a signal failure. Bean ordered Joseph C. Morehead, his quartermaster-general, to provide necessaries for a three months' campaign; and Morehead did so, as he said himself, at the most extravagant prices, paying therefor, at Bean's direction, in drafts on the state treasury. Morehead then marched with forty men, and carrying supplies for a hundred, to the Colorado, and on the way and at that point recruited till the number of his force amounted to one hundred and twenty-five—all doubtless good trenchermen. After spending a month there in doing nothing except consuming rations, Bean ordered him to disband. Morehouse answered by asking two weeks' further time to protect the emigrants, as he characterized his stay at the Colorado; but Bean rejoined with a peremptory order to disband forthwith; and thus ended in the field of active operations what was known as the "Gila expedition." It afterwards appeared that Bean never made any report to the governor about what he or Morehouse had done and that the governor therefore deemed it unnecessary to look after him or issue any order for disbandment of the force. And it was not until September 4, more than three months after the first order for troops, that the governor, becoming in some unexplained way aware that a force at the expense of the state was in the field, issued his order to Bean and Bean issued his order to Morehouse to disband. Though this first expedition against the Indians by state authorities was not very glorious, it was long

remembered for the reason that the expenses amounted to over seventy-six thousand five hundred dollars and furnished the first items in the afterwards lengthy and troublesome account known as the Indian war debt.¹

The second instance in which Governor Burnett deviated from his rule was in reference to an outbreak near Ringgold in El Dorado county. According to the governor's message to the legislature, the Indians in that neighborhood had robbed several immigrants and killed several miners; and on October 25, 1850, he had issued an order to William Rogers, sheriff of El Dorado county, to call out two hundred men at the state's expense. Rogers, however, instead of being satisfied with two hundred men, called out two hundred and fifty. The governor, not deeming the services of the extra fifty necessary, refused to issue commissions to the officers of the last company raised; but in the meanwhile Rogers had to a very considerable extent carried on the work of extermination, though he lost some sixteen of his own men in doing so. But this "El Dorado expedition," as it was called, was little if any better thought of than the Gila expedition; and, on November 15, three weeks after the governor's first order, he was constrained to issue a second one, reducing Rogers' force to one hundred men, and soon afterwards a third, disbanding it altogether. Whether, as a matter of fact, the expedition was justified by anything the Indians had done is a matter of doubt. In so far as they killed any whites, it seems likely that they had acted only in retaliation for murders committed against their own people. It was well known that, among the whites of that region, there were men who boasted of the number of Indians they had killed and declared that no red-skin should escape them. Among the better class of citizens, it was a common opinion that in that neighborhood the Indians were "more sinned against than sinning," and that in fact they were naturally inoffensive and perhaps less warlike than any other tribes of the continent. The cost of this El Dorado expedition was over seventy-two thousand six hundred dollars, which swelled the Indian war debt of California for 1850 to nearly one hundred and fifty thousand dollars.²

¹ Journal Cal. Legislature, 1851, 16, 17, 607-610, 734, 735.

² Journal Cal. Legislature, 1851, 18, 430-432, 734, 735, 763-776.

Upon the resignation of Burnett on January 9, 1851, John McDougal was inducted into the office of governor. Nine days afterwards, in a message to the senate, referring to Indian troubles in Mariposa county, McDougal spoke of what he called "the existing emergent circumstances of the state, the exposed situation of the interior frontier, the open declaration of hostilities on the part of some of the tribes and, in short, the actual existence of an Indian war within our borders." He went on to say that the United States government had appointed commissioners to adjust difficulties and negotiate treaties with the Indians and that they would soon proceed to the scene of disturbances; but that, in the meanwhile and in the absence of effective measures on the part of the general government for the protection of citizens, it was imperative for the legislature to take the necessary steps by providing for the payment of men and munitions of war already supplied or to be thereafter supplied. The result was the enrollment into the state service of the "Mariposa battalion," the killing off of a number of the Indians inhabiting the western slope of the Sierra Nevada south of the Tuolumne river and the collection of others in the reservations established on the Fresno and King's rivers by the commissioners. These events, the particulars of which have already been narrated in speaking of the discovery of Yosemite valley, were usually known as the "Mariposa Indian war" and added to the Indian war debt of the state at least three hundred thousand dollars and according to some much more.¹

As for the work of the United States commissioners, Barbour, McKee and Wozencraft, in establishing reservations, it could not for some time at least be called a success. There was a very general impression in the state, and apparently pretty well founded, that those persons knew little about the country and still less about the Indians; and that everything they did was a mistake and almost everything in excess of their powers. They appear to have traveled about in considerable style and at very great expense, but accomplished nothing of importance. They made presents and promises in abundance, but got nothing of value in return. None of their treaties were approved; and

¹Journal Cal. Legislature, 1851, 599-605, 670-678; 1852, 71, 72.

nearly all the debts they contracted were repudiated as unauthorized. The reservations they established were nearly, if not entirely, useless and very unpopular; and it was for this reason doubtless that in the messages to the legislature of 1852 both McDougal and Bigler, his successor in office, spoke against them. McDougal thought the Indians ought to be removed beyond the confines of the state and Bigler condemned the reservations established by the commissioners as wrong, fraught with evil as well to the Indians as to the whites and calculated to produce constant collisions and impose heavy burdens upon the government.¹ Altogether the work and its results were so unsatisfactory that the commission was abolished, and congress adopted a new system with new officers, known as Indian agents, for the management of Indian affairs.

Not long after hearing of the messages of the outgoing and incoming governors mentioned, four out of five members of the senate committee on Indian affairs presented a majority report substantially approving Bigler's condemnation of the reservation system and McDougal's notion for removing the Indians beyond the confines of the state. On the other hand, John J. Warner of San Diego, one of the best qualified men in the state to speak upon the subject, presented a minority report, which did credit not only to his heart but also to his head. He maintained that the project of the removal of all the Indians, except neophytes of the missions, as recommended by the majority of the committee, was entirely impracticable for the reason, among others, that there was no suitable place outside of the state, except too far off, in which to locate them. He added in substance that the Indians were not as bad as represented. They had been tractable and had not changed their character or habits. Even the mission Indians, as soon as left to their own free will, returned to their original haunts and lived upon their favorite food—the acorn, the pine nut, the manzanita, the mesquite, grass-seeds, roots and the fish and fowl of lake and river. They still lived in their little villages, as their forefathers had done before them; and from these villages the farmers, graziers and vineyardists drew their laborers during the summer months. The majority

¹Journal Cal. Legislature, 1852, 21, 74.

had approved the rejection of all the treaties made with the Indians. On the other hand he would recommend a careful examination of those treaties and, if onerous or not politic, the making of new treaties; and he deprecated such action on the part of the whites as would give the Indians reason to believe that they could put no faith in treaties solemnly entered into and by officers apparently clothed with proper authority. He added that there were plenty of places in the state suitable for Indian reservations and that the land was wide enough for them as well as for the whites.¹

On April 6, 1852, James W. Denver, state senator from Trinity and Klamath counties, Royal T. Sprague, senator from Shasta county, and a few others addressed to Governor Bigler a communication in which they declared that one hundred and thirty white persons had been murdered and two hundred and forty thousand dollars worth of property destroyed by the Indians within a very few months in the then four northern counties of the state, Shasta, Trinity, Klamath and Siskiyou, and that the attacks and depredations of the savages were increasing daily. They said it had been charged that the hostility of the Indians was occasioned by acts of injustice committed by the whites; but they knew, from their own knowledge, that this had not been the case; and they had no hesitation in saying that it emanated from the known character of the Indians—a mischievous disposition and desire for plunder. In but very few instances had the first offenses been committed by the whites. Such a state of affairs could not continue much longer. If protection were not soon extended by the state to its citizens, they would have either to unite and exterminate the Indians in their neighborhood or withdraw from it altogether. They therefore asked the governor to call on the commander of the United States forces in California for troops sufficient to afford protection and punish the depredations, or to order out the state militia for that purpose.²

Bigler transmitted the communication to Brevet Brigadier-General Ethan A. Hitchcock, commanding the Pacific division of the United States army, together with a letter of his own. In

¹ Journal Cal. Legislature, 1852, 537-604.

² Journal Cal. Legislature, 1852, 703, 704.

his letter he said, as if he himself knew it for a fact, that the citizens of the northern counties were suffering the horrors of a predatory war. The Indians, he went on to say, seemed to cherish an inveterate hatred towards the whites; and this was a principle of their nature which could not be obliterated either by time or vicissitude. He said further that another infirmity of the Indian character, of which there was incontestible evidence, was that they had no respect whatever for treaty stipulations the moment their reason for entering into them, which was either self-interest or apprehension of punishment, was removed; and that the character and conduct of the northern Indians only presented an additional illustration of the accuracy of observations, repeatedly made, that whites and Indians could not live in close proximity in peace, and seemed to confirm the opinion expressed by his correspondents that the ultimate evacuation of the northern counties, either by the whites or by the Indians, would be unavoidable. "But, sir," he continued, "it is my duty, however unpleasant it may be, to express my conviction that adequate protection has not been extended by the government at Washington to American citizens residing in California. I refer particularly to the fact that the number of regular troops detailed for service in California and on the borders of Oregon have not been proportionate to the demands of the service. The mountain Indians, whose activity, sagacity and courage have never been surpassed on the continent of America, are untamed and unconquered. Collisions between them and American citizens have been frequent; and the number of victims sacrificed to this neglect is being augmented every day."¹

Hitchcock answered from his head-quarters at Benicia on April 10, 1852. He said he had not previously been informed that there was any special necessity for troops in any one portion of the state more than another—in other words he had not understood that a hostile attitude was exhibited by any of the Indian tribes. In the previous June, Major Kenney, on his march from Vancouver to Benicia had found it necessary to chastise the Rogue river Indians and had done it well; but since then no indications of hostility had been made known until October,

¹ Journal Cal. Legislature, 1852, 705, 706.

when eight white men were reported killed on the Coquille river. He had sent a force there and chastised the Indians; but he had afterwards learned that the report of the murders had been false; that the persons reported murdered had gone into the interior of Oregon, and that their conflict with the Indians resulted entirely from their own imprudence, if not misconduct. Afterwards in December, 1851, he had been informed by Governor McDougal of Indian hostilities in the southern part of the state and had at once sent a force to San Diego, with which and another force already there Major Heintzelman had marched against the Indians, fought and defeated them, secured and effectually punished the immediate authors of the war and restored perfect peace in all that part of the country, except with the Yumas on the upper Colorado, who were too remote to be reached at the time and against whom war was still being prosecuted. He had recently, he went on to say, been induced to believe from statements of several citizens that a military post was required on the northern frontier and he intended at the earliest opportunity, if his means would permit, to establish such a post. But soon after coming to that determination he had received a letter from Redick McKee, the Indian agent, containing a detailed statement of facts, from which he had learned with extreme regret that the people of the northern counties had gone out in bodies and inflicted terrible vengeance upon the Indians for real or supposed murders and aggressions—McKee evidently inclining to the opinion that there was no sufficient ground for such proceedings, as to which point, however, he himself would express no opinion.¹

In further answer to Bigler, Hitchcock proceeded to say that he had set on foot various measures for the better security of the frontier. He had taken steps to establish a post at the Cajon Pass, another on Cow creek above Reading's, and another on the Oregon trail east of Port Orford. He was aware that isolated cases of murder had occurred in different parts of the state; but he had attributed them to peculiar circumstances and did not regard them as indicative of general hostility between the whites and Indians or as subject to the control of troops. The Indians of California were not being gradually pushed back

¹Journal Cal. Legislature, 1852, 706-708.

before an advancing civilization, but every part of the country had been, as it were, suddenly penetrated, explored and occupied at points more or less distant from one another, leaving the Indians in intervals between the whites and in proximity to them. This process had been attended with much sacrifice of life and loss of property and had engendered feelings, sustained by views of interest, which made it difficult to see how collisions could have been avoided in the past or how they could be provided against altogether in the future, until the whites should come into full possession of the country. He was willing to agree that the two races could not live together in harmony and that their near neighborhood must continue to be productive of evil. But the United States government was not to be supposed to be in any-wise wanting in the disposition to render every protection possible under the circumstances. That the troops in California and Oregon were fewer than the nature of the service required of them demanded he had already represented to the war department at Washington and five hundred additional men had been sent him, which he supposed to be but a part of those designed to be sent. At the same time it was well known to be extremely difficult, if not impossible, to keep troops anywhere on the coast on account of the peculiar temptations to desert; and, if there had seemed to be any reluctance or delay on the part of government in sending troops, it was to be attributed to this fact mainly and not to any want of disposition to do full justice to the claims of California. In the meanwhile, besides communicating with the war department, he would immediately make the best use he could of the force under his command for the protection of the country.¹

The governor wrote a lengthy reply in the same tone and spirit as were manifested in his first letter, to which the general sent a short rejoinder, characterized with his usual politeness and dignity. While this correspondence was going on, Bigler had another literary encounter—this time with Indian agent Redick McKee—in which the two correspondents were more nearly matched. McKee spoke of alarming difficulties between the whites and Indians on Eel and Klamath rivers. A couple

¹Journal Cal. Legislature, 1852, 708, 709.

of men had been murdered and their house robbed on Eel river about fifteen miles above its mouth, when the whites about Humboldt bay, assuming that the murders had been committed by Indians, organized into several parties and, attacking the Indians near Eureka, slaughtered several of them and, then proceeding to Eel river, renewed the work of death by killing fifteen or twenty defenseless natives, not one of whom was even suspected of having been concerned in the murders. A week or two later, three or four other Indians, who were suspected, were seized and summarily shot. He went on to relate the case of an Indian boy at a place called "Happy Camp" on the Klamath river, who was deliberately shot by a man from Missouri known as Captain G. R. Tompkins. The Indian friends of the murdered boy made some signs of being exasperated, whereupon the whites of the neighborhood marched against them, shot every man and a number of women and burned their houses. They then proceeded a few miles further up the river and attacked another rancheria of Indians with substantially the same results. These events McKee characterized as "a wanton sacrifice of human life, which if it did not endanger the peace of the northern frontier for months, had at all events brought lasting disgrace upon the American name." He added that previous to that time the Indians in that quarter had been quiet and peaceable, and he suggested to the governor the propriety of such measures as might be necessary to vindicate the laws of the country as well as those of humanity by bringing some of the white desperadoes to punishment.

In answer the governor, after dwelling at considerable length upon the fact that "the career of civilization, under the auspices of the American people, had heretofore been interrupted by no dangers and daunted by no perils" and that "its progress had been an ovation—steady, august and resistless," remarked that, in detailing the troubles that had recently occurred with the Indians in Trinity and Klamath counties, McKee had placed himself at issue with respectable gentlemen, representing those counties in the senate and assembly; and that, in ascribing the guilt of murders to citizens of California, his declarations were not corroborated by the statements which they had submitted to him. He

further said that McKee's reflections implied an imputation upon the character of American citizens, and that he did not assent either to its justice or its propriety. As a private intercessor between American citizens and their savage enemies, consanguinity and the sentiments it inspired inclined him to favor the cause of his countrymen; and, as a public magistrate chosen by American citizens, he could not yield his approbation to any imputation upon their intelligence or patriotism; nor could he forbear to express his opinion that an investigation of the circumstances would fully acquit American citizens residing in the northern counties of the charge of "murdering naked and defenseless Indians in cold blood." To all this rhetoric, McKee replied that he fully concurred in the general remarks made by his excellency touching the progress of civilization and the purposes for which governments were instituted among men: many of them were familiar truisms very prettily expressed. But in reference to Indian troubles, it appeared that his excellency had misapprehended or misconstrued parts of his letter and been thereby led into false conclusions. He had attempted no detail of Indian difficulties in general and in all past time in Trinity and Klamath counties; and troubles may have occurred about which he knew nothing. What he had designed was to bring to his excellency's attention two distinct massacres in cold blood of defenseless Indians by the whites—one at or near Humboldt bay and the other on the Klamath river. He presumed, from the statements of the "respectable gentlemen representing those counties in the legislature," that they had no information of the massacres to which he had referred; but, if they had and if his excellency still thought he was placed "at issue" with those gentlemen, he had entire confidence that an investigation would show the accuracy of his information and the inaccuracy of theirs. The intimation, if there was any contradiction, that any special credit should be given to the statements of gentlemen because they happened to be "members of the legislature" was a position in which his experience did not lead him to concur.¹

McKee proceeded in much the same style in reference to every statement made by Bigler and wound up with denying

¹Journal Cal. Legislature, 1852, 714-720.

that he had made any reflections upon the character of American citizens. He professed to entertain quite as much regard for the character and honor of his countrymen and for all the proper claims of "consanguinity" as his excellency or any other citizen; but his regard for the "dear people" should not prevent him from calling things by their right names and denouncing a white man who killed an Indian in cold blood just as readily as he would an Indian for killing a white man. They would be equally guilty of murder. But as a general rule the Indians of this country were not disposed to war with the whites; they were afraid of the long rifles and seldom attacked or stole from the whites unless driven to desperation by hunger or the supposed necessity of killing a pale-face to make good the death of one of their own people. The "lex talionis" was a part of their religion. They thought they would hardly lie quiet in their graves, if they failed to revenge the deaths of such of their people as had fallen by the hands of their enemies; and generally, he believed, they managed to keep the account about balanced. This law of their education, if not of their nature, was well known to all old mountaineers; and it was surprising, in view of the certain consequences, that packers and traders on the mountain trails continued to pick off straggling Indians whenever and wherever opportunity served. Until a different policy should be adopted, border frays and disturbances would continue to be of frequent occurrence.¹

It would not be worth while to notice at any length these controversies, if they had not represented the different views and feelings of very large sections of the community in regard to the Indians. On the one hand were those who, believing in the advantages of extermination, were willing to credit almost any story of Indian depredation and were not overparticular whom they destroyed, provided they only killed Indians. These to a large extent were represented by Bigler. On the other hand were those who looked upon Indians as fellow human creatures, entitled to the same rights of protection as whites. These were represented by Hitchcock and McKee. In other respects the controversies did not accomplish much. McKee ended with

¹Journal Cal. Legislature, 1852, 720, 721.

doubting the accuracy of the reports furnished by Denver, Sprague and others and discrediting most of the rumors of whites killed by Indians, while Bigler, on his side, expressed himself in decided opposition to the treaties which had been negotiated with the Indians and declared them contrary to the wishes and interests of the people. Under the circumstances nothing was to be expected, except the old state of affairs and the war of extermination continued.¹

¹Journal Cal. Legislature, 1852, 396, 397.

CHAPTER XII.

TREATMENT OF INDIANS (CONTINUED).

THE history of the northern counties of the state for several years afterwards exhibited a succession of Indian troubles. There were doubtless some cases, in which the Indians were the aggressors and committed murders and robberies; but their crimes bore no proportion to the crimes committed against them. In every instance where they killed a white person or stole any of his stock and in most instances where, on account of the absence of proof, it was possible that they might have done so, the whites would organize a company or companies and proceed to make an indiscriminate attack upon the rancherias of the aggressors or supposed aggressors. It can not be said that these attacks were always unjustifiable. On the contrary it is not unlikely that some portions of the white community owed their safety only to prompt, determined and decisive action. But nothing could excuse much of the heartless and brutal work that was done against perfectly innocent and inoffensive creatures. It was related, for example, in the newspapers of the time, that in the spring of 1852 a butcher named Anderson was found murdered in the Trinity mountains. A wedge had been forced into his mouth and his cattle driven away. When intelligence of the facts reached Weaverville, a volunteer company of some forty men was immediately raised and marched to wreak vengeance upon the murderers. After proceeding some thirty miles in the direction of the South Fork of Trinity river, just at daylight, they came upon a rancheria of Indians, some of whom were engaged in cooking meat which came from or was supposed to come from Anderson's cattle. Whether so or not, the volunteers, taking cover behind trees, at once opened fire. The squaws threw themselves in front of the men and children

to shield them from danger. But it was of no avail. An indiscriminate slaughter ensued, in which neither age nor sex was respected. Of a hundred and thirty or forty Indians, only one or two escaped. "A snake is a snake, though but an inch long," exclaimed the volunteers when appealed to on behalf of the children.

In the same year, 1852, five white men were reported murdered by Indians at Blackburn's Ferry on the Klamath river. A volunteer company of miners was immediately raised and marched against the nearest rancherias, which were entirely destroyed. In September, 1854, Arthur Wigmore, a settler from Missouri, who lived near Lower Rancheria on Eel river, was murdered and his body thrown into a slough. Upon an examination it was charged that an Indian, known as Billy, had killed him. As soon as this accusation was reported to the Indians of Lower Rancheria, they, apparently knowing or having good reason to suppose what they had to expect, fled to the mountains. In the course of a few days several parties of citizens organized with the object of arresting the murderer or punishing his tribe. One of them enlisted in their service a small band of Indians, apparently renegades, who went out and in a day or two afterwards returned with a bloody human head, said to be that of Billy. About the same time, however, Colonel Robert C. Buchanan, the United States officer in command of Fort Humboldt on Humboldt bay, sent out Captain Henry M. Judah with a detachment of soldiers in search of any Indians who might be implicated in the murder. Judah, who proved himself an able officer, after a long and difficult march through the mountains, surprised a camp of about a hundred Indians, two of whom confessed to having killed Wigmore but claimed that he had given them intolerable provocation and that they were therefore justified in putting him to death. Being satisfied of the truth of their story, Judah, without going further, returned to Fort Humboldt with the two Indians as prisoners and delivered them over to the custody of Buchanan. That officer announced that he would hold them only until the civil authorities should demand them. The citizens in general called upon him to punish them. He contended, and rightly, that he had no authority

to punish the Indians for the murder of Wigmore, even after confession of guilt, while the citizens intimated that he was a "slave to discipline" and that it was not the place of the civil authorities to give trial to prisoners captured and detained by the military. The final result was that the Indians, after being held some time, were released and found their way back to their tribe.¹

The effect of this controversy and the consequent escape of the murderers without any punishment was very bad upon all the Indians of the neighborhood. For a year or so afterwards there was no special outbreak; but the Indians were restless, and it was evident that trouble was brewing. In January, 1855, the miners of Orleans Bar on the Klamath river, becoming alarmed at what they heard and saw about them, held a public meeting and resolved that all persons thereafter detected in selling fire-arms to the Indians should have their heads shaved, receive twenty-five lashes and afterwards be driven from camp; and also that all the Indians in the vicinity should be disarmed. In pursuance of the last resolution a number of rancherias were visited and the arms found there taken away; but a few tribes, including those known as Red Caps, refused to part with their weapons. Thereupon a company of miners marched to one of the Red Cap rancherias and demanded its surrender. The answer was a volley of shot, by which several of the whites were killed and others wounded. This unexpected reception demoralized the miners and, instead of fighting, they retreated to Orleans Bar and asked assistance from Colonel Buchanan of Fort Humboldt. He furnished a force under Captain Henry M. Judah; but little or nothing of importance was accomplished—partly for the reason that most of the miners wanted to make an indiscriminate massacre of all the Indians on the Klamath river and its tributaries, which Judah would not consent to, and partly because before much or anything could be done Judah was recalled. At various points above Orleans Bar the situation was equally bad. At the mouth of Salmon river a determination on the part of the miners to massacre all the Indians was

¹ Indian Wars of the Northwest, by A. J. Bledsoe, San Francisco, 1885, 161-163, 179-181.

prevented by United States troops; and among them was a young captain, named Ulysses S. Grant, the same who afterwards rose to the highest distinction in the profession of arms and the highest office in the gift of his countrymen. After some time and discussion the counsels of the regular army men prevailed all along the river to the effect that, until it should appear absolutely necessary to enlarge military operations, they should be confined to an expedition against the hostile Red Caps. With this purpose in view volunteer companies were raised, which proceeded against what were known as the Cappell and Mores rancherias of the Red Caps and destroyed them, killing twenty-six men in arms and taking twenty-three prisoners. After that, little or nothing was done until some months subsequently, when Captain Judah was again sent from Fort Humboldt to the Klamath. He dismissed the volunteers and set to work pacifying the country, in which he was successful. Not long afterwards a reservation was established at the mouth of the Klamath, running up the river twenty miles and extending a mile on each side, known as Klamath reservation, to which all of the hostiles remaining alive—not more than fifty in number—were removed.¹

In 1856 there were a number of small expeditions by whites against Indians in the Eel river and Humboldt bay regions, in each of which, though little or no provocation had been given, from six to ten Indians were killed. Any rumor of depredation started by a pale-face for the unexplained absence of cattle from their usual pasture grounds was at any time sufficient to call out volunteers; and when volunteers went on the hunt they made it a point to avoid ridicule on their return and were sure to bring back scalps. This was what they called, and apparently with self-congratulation, "crowding the redskins to the wall." But in the meanwhile many of the Indians had found that it was safer for them to be at the reservations than anywhere within reach of volunteers. There were at that time in the northern counties the Klamath reservation above mentioned, the Mendocino reservation on the coast about fifty miles southeast of Cape Mendocino and supposed to extend three miles wide from Noyo

¹ Bledsoe's Indian Wars of the Northwest, 163-176.

river to Bear river, the Nome Lackee reservation consisting of twenty-five thousand acres about twenty miles southwest of Red Bluff, and the Nome Cult reservation in Round valley, Mendocino county, consisting of one hundred and two thousand acres. The Nome Cult, meaning West valley, was attached to the Nome Lackee, meaning West-talk, but afterwards became the principal reservation in the state. There had been an attempt in 1851, by Redick McKee, to make a reservation at the mouth of Eel river; but, owing to his want of business tact, it proved a complete failure. In October, 1856, the number of Indians on the various reservations named were as follows: Klamath, twenty-five hundred; Nome Lackee, two thousand; Mendocino, five hundred; and Nome Cult, three thousand. At the same time there were in the southern part of the San Joaquin valley three other Indian reservations, the Fresno reservation or farm, the King's river reservation, which was attached to or an adjunct of the Fresno, and the Tejon reservation, which had been established near Tejon Pass by Edward F. Beale, superintendent of Indian affairs, in 1853. The number of Indians at the last-named reservations in October, 1856, was nine hundred at Fresno, four hundred at King's river and seven hundred at the Tejon. This made altogether ten thousand Indians at the reservations. Outside of the reservations there were in the month of October, 1856, as near as could be ascertained, in San Diego and San Bernardino counties eight thousand; in Los Angeles, Santa Barbara, San Luis Obispo, Monterey, Santa Clara and Santa Cruz two thousand; in Tulare and Mariposa twenty-five hundred; in Tuolumne, Calaveras, San Joaquin, Alameda and Contra Costa forty-one hundred; in Sacramento, El Dorado and Placer forty-five hundred; in Sutter, Yuba, Nevada and Sierra thirty-five hundred; in Butte, Shasta and Siskiyou fifty-five hundred; in Klamath, Humboldt and Trinity sixty-five hundred, and in Mendocino, Colusa, Yolo, Napa, Sonoma and Marin fifteen hundred—in all thirty-eight thousand one hundred or, with the reservation Indians, forty-eight thousand one hundred.¹

The reservation system was designed to afford an asylum for the Indians and protect them against the aggressions of the

¹ Bledsoe's Indian Wars, &c., 207-211, 457-464; Taylor's Life Illustrated, 75.

whites, as well as to protect the whites against raids by the Indians. But it could hardly be expected that the Indians would be willing to go to the reservations or that they would willingly remain after being taken there. As a rule they preferred their freedom; and in nearly every case they had to be driven by force. Not unfrequently only a remnant was left by the time the reservation was reached. Of over ten thousand Indians in Yuba, Placer, Nevada and Sierra counties in 1849 not more than about thirty-eight hundred remained in 1854. Many of these in 1856 were at the Nome Cult reservation, and among them the famous old Weimah, chief of the Grass Valley tribe, who had been friendly with the whites from the days of the American occupation and acted at the reservation as a sort of alcalde or general referee in case of disputes among his people. He also assisted in teaching the Indians how to carry on their agricultural and other industrial pursuits, which with anything like honest and prudent management on the part of officials must have insured success. But unfortunately the reservation offices had large salaries and numerous opportunities for peculation and theft connected with them; and they were therefore sought after and in nearly all cases secured by politicians who were absolutely unfit for the places or in fact for any positions of trust. In their hands the reservations could not thrive; and of course they did not.¹

In the early part of 1858, after a year or two of comparative quiet, trouble occurred with the Wintoon Indians, who inhabited the Bald Hills near the head-waters of Mad river. The remote origin of the difficulty is said to have been a domestic quarrel between a vagabond negro, named Leroy, and a Wintoon squaw with whom he lived. She, wishing to make a change, ordered him off and, when he refused to go, engaged two of her tribe to kill him. They attacked, one with a hatchet and the other with a knife; but Leroy stood his ground and, though badly wounded in the breast with the hatchet, managed to kill his assailants and then made his way to the nearest whites, who appear to have taken up his quarrel. On the facts becoming

¹ Alta California of June 10, 1853; J. Ross Brown in Harper's Magazine for August, 1861, Vol. XXIII, 306.

known, the Wintoons not only thirsted to revenge themselves against Leroy; but they felt outraged by the interference of the whites; and the excitement on both sides continued to grow until June, when a party of Wintoons attacked a couple of packers on the Trinity trail near Grouse creek and shot and seriously wounded one, named William E. Ross. This roused the whites and by July several different parties of volunteers were organized and started against the Wintoons. One, consisting of sixteen men under the command of John Bell, attacked a rancheria on Grouse creek and killed several Indians; but not long afterwards, upon being in turn attacked, he and his men were demoralized and ingloriously took to flight. Not long subsequently a couple of Indian boys, who were driving a train of mules into Eureka, were fired upon by a lot of cowardly whites and one of them killed. Later on, the Bell party, under the lead of a man named Winslet, made another advance; but they were outwitted by the Indians and worsted. It was found that the Wintoons were an enemy not to be despised.¹

Bell and his party had done much more harm to the cause of the whites than good. They had been defeated, and their defeat encouraged the Indians. The latter, not finding any force in the field to encounter, made attacks upon a couple of farms and killed a man named Paul Boynton, who lived about ten miles from Union. When the report of this last murder reached Union and Eureka there was renewed excitement. Several public meetings were held, at which the first cry was for instant and total extermination of the Indians. But there was another class, which had been gradually growing in the community, that condemned extermination as more barbarous than any barbarity displayed by the savages; and this class finally prevailed in silencing the cry and inducing the adoption of more humane and reputable measures. Meanwhile John B. Weller, then governor, who had been several times addressed in vain on the subject of the Indian disturbances, at length found it necessary to take action and, "in order," as he expressed it, "to give us a clear and indisputable claim against the federal government in the event that forces were called into the service," he made a demand at head-quarters of

¹ Bledsoe's Indian Wars, &c., 228-237.

the Pacific division of the United States army for troops to clear the road from Humboldt bay to Weaverville of the Indians. The officer in command answered that he had no troops to send in that direction, whereupon Weller ordered William C. Kibbe, his adjutant-general, to Weaverville to call out a military force if necessary. Kibbe proceeded to Weaverville on October 1, 1858, and organized a volunteer rifle company under the name of the Kibbe guards; and about the same time another volunteer company was organized at Big Bar with I. G. Messec as captain. Messec's company, under Messec's own lead, did effective service by marching after and engaging the Indians in December, 1858, on Mad river, killing a number of fighting men and taking about one hundred and twenty prisoners. In January, 1859, at a place called Dow's Prairie, Messec with only fourteen of his company encountered and attacked a rancheria of about one hundred and fifty Indians; but, as they were unexpectedly well supplied with fire-arms, he found it prudent to retreat, which he did with two of his men wounded and taking along thirteen prisoners. About the end of January and beginning of February a storm of almost unprecedented severity occurred in the mountains, which prevented the Indians from hunting or gathering food and in effect starved and famished them into submission. From that time the volunteers had little to do but seek out the scattered natives, who no longer made any resistance, and drive them like sheep down to Humboldt bay, where they were embarked on the bark Fanny Major and forwarded to the Mendocino reservation. The result of the campaign, which lasted from October till April, was about one hundred Indians killed and three hundred taken prisoners and an appropriation by the state of fifty-two thousand dollars to defray expenses.¹

While the Wintoon war was going on in the mountains, there was also trouble on the coast. In May, 1858, a party of white men, on pretext of taking away fire-arms in possession of the Indians, assaulted a rancheria near the mouth of Eel river, killing a man and woman and wounding a woman and child. A few days afterwards two white men were shot and wounded by Indians near Eureka. About the same time a white man, named Van-

¹ Bledsoe's Indian Wars, &c., 237-280; Stats. 1859, 295.

dall, was killed by Indians near the mouth of Klamath river. In June, 1858, a white man, named Thornton, was killed by Indians in Mattole valley; and in revenge the whites of that region made an indiscriminate slaughter of every Indian they could find, killing twenty in two weeks. In May, 1859, a white man, named Ellison, was killed by Indians whom he and others had attacked for stealing cattle on Yager creek; and thereupon followed the organization of a military company, called the Hydesville volunteers, which however gained no glory and, with the exception of helping along the policy of extermination by killing a few apparently inoffensive Indians who were gathering clover at the time, did no execution. About the end of 1859 a couple of white men, who were hunting in Mattole valley, were killed by the Indians; and again the whites got together and made an indiscriminate attack upon several rancherias. But the crowning exploit of the whites of the northwest coast in their warfare against the Indians—and one of the foulest records that blots the page of history—was the horrible and revolting butchery known as the massacre of Indian Island.¹

In Humboldt bay, opposite the city of Eureka, there is an island, now covered with sawmills and green fields but in 1860 consisting of a long, irregular stretch of low-lying, sandy marsh land, barely elevated above flood tide and known as Indian Island. On it lived a rancheria of inoffensive Indians, who supported themselves chiefly by fishing; and, being to a certain extent isolated and undisturbed, they cultivated and kept up the old traditional customs of their forefathers and especially an annual gathering on the island, for social and perhaps religious purposes, of all related and friendly rancherias in the neighborhood. There for several weeks they would carry on their superstitious but harmless ceremonies and rites, consisting principally of dances and monotonous chants—all very bizarre and absurd in the eyes of the whites though doubtless significant and satisfactory to the Indians. On the occasion referred to—it was Saturday, February 25, 1860—there were congregated on the island and participating in or witnessing some of these barbaric exhibitions about two hundred Indians, mostly women and children inhabitants of

¹ Bledsoe's Indian Wars, &c., 295-302.

the island though including a number from Mad and Eel rivers. It was night and dark; but the immediate vicinity of the huts, in which and near which the dancing and other ceremonies were being celebrated, was lighted up with bright fires, whose fitful flames threw a weird and impressive character over the strange scene. Towards midnight, when all were more or less wearied with long waking and excitement, a number of boats silently approached the island in the darkness; and out of them leaped white men armed with axes, clubs and knives, who immediately took positions apparently previously chosen so as to inclose the rancheria and make complete work of the dastardly massacre they contemplated. One of the Indians, who was the first to notice the whites, uttered an exclamation; but he was immediately silenced by a stab from a bowie-knife. By that time the rancheria was alarmed and men, women and children began running in all directions; but the brutal butchers struck down every one they could get at, splitting open skulls, beating out brains, cutting throats and otherwise varying their hellish outrages. Of all the two hundred Indians on the island only four or five men escaped by reaching the water and swimming for their lives. By day-light next morning the whites had taken to their boats again and left the island without being observed by any persons except those in league with them. But the spectacle they left behind them was horrible. Blood stood in pools on all sides; the walls of the huts were stained and the grass colored red. Lying around were dead bodies of both sexes and all ages from the old man to the infant at the breast. Some had their heads split in twain by axes, others beaten into jelly with clubs, others pierced or cut to pieces with bowie-knives. Some had run into muddy ground and were caught and struck down as they mired; others had almost reached the water when overtaken and butchered.

The facts were soon known at Eureka; and shortly afterwards it was further ascertained that several other massacres had taken place at the same time. Two rancherias, one on the sand spit south of the entrance to Humboldt bay and the other near the mouth of Eel river, had been attacked on the same night and in the same manner and with similar results, except that only about one hundred Indians were there to be slaughtered. Who

the whites were that did the heinous deeds or how many participated was not found out. It was said, however, and apparently with truth, that they were members of a secret organization which originated in Eel river valley and by degrees numbered between fifty and seventy-five persons, including some of the most prominent men in Humboldt county. Conscious of the devilish character of the objects they proposed, they met in out-of-the-way places and took no one in their confidence except those upon whom they could implicitly rely. Some of them were afterwards suspected of complicity; but there was no sufficient proof to convict them in a court of justice. Their crime was so dastardly and the indignation of the better part of the community so great that no one dared to acknowledge the truth. But even if they had confessed, it is not at all likely that any of them could have been properly punished in Humboldt county or would have been seriously prosecuted.. The grand jury of the county in the following April took occasion to express its "condemnation of the outrage" and regret that its investigations had failed to elicit the facts; but that was all; and there the matter dropped.¹

Trouble still continued to arise. Numerous assaults and a few murders, some by Indians and some by whites, took place during the next few months; but the result in every case was that, when the balance came to be struck, it was in favor of the whites. The only difficulty seemed to be that the war of extermination did not progress rapidly enough. Without paying any attention to the horrible brutalities committed by persons of their own color, the whites, every time a murder by Indians was reported, became wild with excitement and demanded more extermination. Not satisfied with their own efforts in that direction, they called at one time upon the state and at another time upon the United States authorities to assist; and when those authorities declined or hesitated, on account of the palpable wrong of helping a community which could allow such atrocities as the Indian Island massacre to pass unpunished, they in unmeasured terms reviled and abused them. As a matter of fact the United States authorities at Fort Humboldt found it

¹Bledsoe's Indian Wars, &c., 302-313.

necessary in the cause of humanity after the massacre, instead of fighting the Indians to afford them refuge and shelter; and it was not until some months afterwards, when they deemed it safe, that they consented to the removal of the three hundred and fifteen Indians under their care to the Klamath river reservation, and then only under a sufficient military escort.¹

Unfortunately the Klamath river reservation was managed in the same manner as most of the other reservations or, in other words, by individuals who had been given their positions in reward for political services. Under such management or want of management there was nothing to induce the Indians to remain. On the contrary they complained of being starved and, as opportunity presented, escaped in small bands and made their way back to their old homes. About the same time in the summer of 1860 that these coast Indians were returning from the reservation, and it might have been supposed that they had suffered enough to stand almost anything, an event occurred in Hoopa valley, as the country about the lower portion of Trinity river near its junction with the Klamath was called, which roused them to vengeance. A couple of white men there, one said to be a citizen and the other a soldier, murdered an Indian of prominence among his people for protecting a squaw from their violence. They were arrested and taken before a justice of the peace for examination; but, as the only witnesses to the murder were Indians, and as under the disgraceful statute of the state passed in 1850 and not repealed until 1872 no Indian could be a witness against a white person, they had to be discharged for want of evidence. At this result and the appalling prospect that it opened to the Indians, showing that they were at the absolute mercy of every vagabond and cut-throat white in the country, they were exasperated; and a number of them left their rancherias, presumably with the intention of wreaking vengeance, according to their customs, upon any white men they might find it safe to attack. Within the next few months several whites were killed and various depredations committed. In April, 1861, it was ascertained that a conspiracy existed among all the Indians of Hoopa valley to exterminate the

¹ Bledsoe's Indian Wars, &c., 313-322.

whites; and, upon this fact becoming known beyond dispute, the United States troops at Fort Gaston in Hoopa valley as well as those at Fort Humboldt, which had hitherto kept out of the war of extermination of Indians, took part in the controversy. At the same time the state authorized the enlistment for three months of thirty volunteer guides, who were soon afterwards mustered into the service of the United States. These men, in conjunction with the United States soldiers under the general command of Captain Underwood of Fort Gaston and Captain Lovell of Fort Humboldt, made a short campaign of less than three months, in which time they killed nearly a hundred Indian fighting men and for a time put an end to the Indian troubles.¹

On July 16, 1861, their three months' term of service having expired, the volunteer guides, who were all perfectly familiar with the country and with its native inhabitants, were disbanded. After their withdrawal the old state of affairs returned. A number of whites were killed by the Indians. Thereupon the usual mass-meetings followed, with appeals to the state for aid; and on September 9, 1861, on authorization of the governor, a new volunteer company was organized for three months' service under the name of the Humboldt home guards. This company consisted at first of fifty-five men, but for the last month of service of seventy-five. They were divided into three sections, each operating in a different district; and between them they had fifteen encounters in which about seventy-five Indians were killed and as many wounded, with a loss of one killed and eight wounded on the side of the whites. Among the skirmishes was one, known as the battle of Thief Camp, which occurred on November 17. Sixteen whites attacked a rancheria and, much to their surprise, found their fire returned and a stout resistance made, which compelled them to retreat. It was on this occasion that one white man was killed and six of the eight above mentioned as wounded received their hurts. The other two were wounded a few days afterwards. One of them, a man named James Brock, was injured in a very singular manner. He and a companion named J. D. Herrick, while on a scouting trip, saw two Indians. At a signal agreed upon they both fired, killing

¹ Bledsoe's Indian Wars, &c., 322-346

one of the Indians. The other fled and was chased by Brock, who fired two pistol shots, which struck but did not stop him. Brock then caught him by the hair and called on his comrade to shoot. Herrick did so; but, instead of hitting the Indian, he struck Brock in the hand, severely crippling three of his fingers. The Indian escaped. And with this incident the campaign of the Humboldt home guards substantially ended.¹

In September, 1861, after the war of secession had broken out, the sheriff and other citizens of Trinity county addressed Governor John G. Downey, complaining of daily Indian depredations and asking to be immediately furnished with a force of twenty-five men for the protection of life and property. Downey referred the communication to Brigadier-general Edwin V. Sumner, who had not long before been sent out from Washington to take military command of the department of the Pacific for the Union. Sumner answered Downey by saying that he very much doubted these Indian reports; but, if twenty-five men would be a sufficient protection, it seemed to him that the Trinity people ought to take care of themselves, and especially at a time when the department had so much on its hands. This answer apparently settled the business so far as Sumner was concerned; but in the early part of 1862, when he left California for more active service in the eastern states and Brigadier-general George Wright took his place, Downey renewed his application for United States soldiers on behalf of the Trinity settlers. Wright was much more compliant than Sumner and sent a force of California volunteers, which had been mustered into the service of the United States, to drive all the Indians in the upper counties to the reservations. These troops, consisting of two companies, were under the command of Colonel Francis J. Lippitt, formerly Captain Lippitt of Stevenson's regiment, who had been in California since 1847 and was supposed to have experience and know all about the Indians. But, with the exception of establishing a few new forts to accommodate his soldiers and carefully preserving their lives and limbs by preventing them from in any manner interfering with the Indians, he accomplished nothing. Under the circumstances the old state of affairs continued; and, as

¹ Bledsoe's Indian Wars, &c., 347-362.

before, while some whites were murdered, many Indians were massacred. Unfortunately in both cases the innocent generally suffered for the guilty; and the only very great difference was that as a rule little or no account was taken of killing a few Indians more or less, while the murder of a white man or the driving off of a few cattle was the occasion of wide-spread excitement, generally followed by mass-meetings and exterminating Indian expeditions.¹

Among other attacks by Indians against whites made about this time was one upon what was known as Daby's Ferry on Mad river about five miles north of Arcata. It was a wild spot surrounded by forests and at a distance from other habitations. On the evening of June 6, 1862, the only whites at the place were Daby and his wife, their three children, Mrs. Daby's mother Mrs. Danskin, her nephew a little boy named George Danskin, two soldiers from Camp Gaston, a Frenchman named Pierre Nizet, and a young half-breed Indian who lived at the ferry. The family had just seated themselves for supper and Daby had gone to the door to call Nizet, when a shot was fired at him, followed in quick succession by others. Hastily closing the door he said that Indians were firing at the house and ordered the women and children into a back room which was comparatively safe as long as the Indians kept at a distance. But after remaining there some time, Daby thought the only prospect of escape was to run for the river. The winter floods had carried the ferry-boat away; but there were several canoes there. Upon this advice they all started, Daby carrying one child, Nizet another and Mrs. Daby the third, a baby of thirteen months. As they ran, shots were fired at them from different directions and one of the soldiers was wounded. All however got into a canoe and pushed out into the stream amidst a cross fire from the opposite banks. Mrs. Danskin being struck by one of the bullets, Daby suggested that they had better make a landing and separate in the brush. The suggestion was followed and the party landed; but they had gone but a few steps when Mrs. Danskin fell, pierced by two bullets. Mrs. Daby with the baby in her arms had gone only a short distance further when, after

¹Bledsoe's Indian Wars, &c., 363-373.

being fired at several times, she was struck in the right arm and fell fainting to the ground. As she fell, however, she heard Daby say to Nizet that they should hide the children in the bushes. When she returned to consciousness she found herself in the presence of several Indians, who robbed her of all the money and jewelry she had on her person, including the wedding ring upon her finger. With this exception, they did not offer any violence but on the contrary told her that she would find her children in the brush and that she should take them to Arcata. She asked about the little boy, George Danskin; but they answered that he was in their possession and the only way to get him was to send plenty of money from Arcata for his ransom.

Mrs. Daby afterwards asserted that she distinctly recognized the features of two white men, imperfectly disguised as Indians, among the savages; but, though this was possible, the story was not corroborated. Had this been the case, it is not likely that she would have been allowed to remain a living witness of their ineffable infamy. But however this may have been, she was allowed to go without further inquiry; and, taking up her infant and proceeding to the nearest thicket, she found her other children, one a girl aged five years and the other a girl aged three. Leading them and carrying her baby, she walked about two miles, when, finding them unable to go further and it being very late, she made up her mind to hide them again and push ahead for relief. Taking off two of her skirts and picking out a spot covered with dense undergrowth at the foot of a tree, she made a bed and, placing the two little girls in it, told them to go to sleep and lie quiet until she returned. She then, with the baby in her arms, pushed on again for several miles, when she met a large relief party, including her father and brothers, coming up from Arcata. It was then after two o'clock in the morning. It appeared that Daby, when the family separated at the river, had made his way to Arcata and carried the news of the attack; and soon after the two soldiers reached the same place, both seriously though not fatally wounded. Mrs. Daby, after attempting to describe where she had left her little girls, proceeded on to Arcata, while the relief party hurried on to the river and took up the body of Mrs. Danskin. But they were unable to find the

spot described by Mrs. Daby and were about giving up the search in despair, when a fortunate idea occurred to Mrs. Daby's youngest brother. He thought of a valuable dog at the ferry, which had been accustomed to play with the children, and, calling him up, motioned down the river and cried, "Jingo, go find the children." The sagacious animal at once set off with what seemed more than brute intelligence and led the way into the forest to the very spot where the children had been left. They were lying locked in each other's arms, fast asleep. Only Pierre Nizet, little George Danskin and the half-breed remained to be accounted for. The latter in a day or two afterwards reached Arcata in a very disabled condition. He had been wounded by a shot in the thigh, but after a desperate fight had managed to kill two of his assailants and escape. As for Nizet and the boy nothing was heard for some time; and it was supposed that the one had been killed and the other carried into captivity, as stated to Mrs. Daby. But it was finally ascertained, through the mediation of some of the Hoopa valley people, that when the attacking Indians attempted to seize the boy, Nizet picked him up in his arms and ran to a large log that spanned the river. As he was crossing, he was shot and fell into the water with the boy in his arms. Below was a deep pool, where a powerful eddy whirled them round and round and dragged them down to death. When their bodies were recovered the arms of Pierre Nizet still clasped the boy, as if he would never let him be taken.¹

The news of the attack on Daby's Ferry occasioned another mass-meeting at Eureka; and the mass-meeting resolved upon organizing new companies of volunteers, applying for state arms and asking further aid from General Wright. Upon being interviewed on the subject, Wright promised three more companies, and the state furnished thirty rifles; but in the meanwhile the Indians committed a number of other murders and depredations; and, without waiting for United States troops, the citizens of Arcata enrolled a new company, known as the Union volunteers with George W. Ousley as captain, and the people of Eel river valley a company, called the Eel River minute-men, with A. D. Sevier as captain. These immediately took the field against

¹ Bledsoe's Indian Wars, &c., 374-379.

the hostiles, while the United States troops were principally employed in gathering together several hundred prisoners from comparatively friendly tribes, who were not averse to being supported by the government. On the morning of August 21, 1862, Ousley, with thirty of the Union volunteers and seventeen United States regulars whom he had induced to accompany him for the service, attacked a camp of the hostiles on Light's Prairie, five miles from Arcata. The assault was brought on a little too early by an unexpected movement on the part of the Indians, so that only six of them were killed and the others escaped through the bracken and underbrush. One volunteer, James Brock, was killed. He was the same man who a few days after the battle of Thief Camp in November, 1861, as before related, had seized an Indian by the hair and called upon a companion to shoot, with the result of having his own fingers crippled. On this occasion he seized another Indian by the hair; but the savage immediately turned around and shot Brock through the heart with a pistol. A day or two afterwards Ousley with thirty-five Union volunteers surprised and attacked another camp of about fifty hostiles on Little river. At the first volley from the volunteers, the Indians fled precipitately, leaving twenty-two dead and a large amount of plunder. Among the dead was the body of a white man, who had been living and taking part with the Indians, but no one knew who he was or whence he came. A split across the sole of one of his boots, which left an unmistakable mark in his track, was the clue that led the way to the hostile camp.¹

While the Union volunteers were in the field, fighting the hostiles, the United States forces under Colonel Lippitt at Fort Humboldt did substantially nothing, except see that the Indians, who had come in and consented to go to the reservation, were transported thither. There were over eight hundred of them, men, women and children, who had been collected in a temporary camp on the peninsula south of the entrance to Humboldt bay. They were kept there until towards the end of August, when they were taken on board the steamer Panama, which had been chartered for the purpose, and removed to the Smith river

¹ Bledsoe's Indian Wars, &c., 380-398.

reservation in the extreme northwest corner of the state. This reservation, near the mouth of Smith river in the then recently organized county of Del Norte, had been shortly before selected by George M. Hanson, the superintendent of Indian affairs for California. The purchase of several squatter rights for it, the buildings that were erected there, the general management of the place and the success attending its administration appear to have been all of a piece and all far from commendable or encouraging. The agents in charge may not have been any worse than those on other reservations, but they were no better. Like the Klamath river reservation, from which it was distant only about twenty miles, it was almost from the start a failure in everything except expense to the government and pay to the officials who had charge of its affairs. Within a very few months after the Indians were removed there, almost all of them, and all the able-bodied men, had left and gone back to their old haunts.¹

In the beginning of 1863—there being apparently no great change in the condition of affairs, unless it were that the hostiles had laid waste larger tracts of country and were more desperate and that there was still less safety in residence, traffic or travel on the borders of Humboldt and Klamath or of Humboldt and Trinity counties than before—it was at length determined, and in something like a business manner, that such a state of affairs must stop. It seemed useless to expect anything from the United States government for the reason that its subordinate agents and employees as a rule were spoils-men and appointed by politicians for political services; and it was therefore resolved that another effort should be made to secure state assistance—and this time such assistance as would be adequate. On proper representations to this effect, including a report of the Klamath county grand jury upon the subject, Leland Stanford, then governor of the state, on February 7, 1863, issued a proclamation calling for the enlistment of six companies of volunteer troops for service against the hostiles and inviting the citizens of Humboldt, Klamath, Del Norte, Siskiyou, Trinity and Mendocino counties to organize them. They were to comprise a force to be known as the Mountaineer battalion, to serve against the Indians

¹ Bledsoc's Indian Wars, &c., 398, 399.

only and to be mustered out of service when peace should be permanently established. Commissions were issued to Charles W. Long of Eureka and George W. Ousley of Arcata, who in the course of a few weeks raised two companies in Humboldt county; and soon afterwards four other companies were raised, three in Klamath, Del Norte, Siskiyou and Trinity counties and one in Mendocino county. In April, the complement being filled and Stephen G. Whipple having been placed in command with the rank of lieutenant-colonel, the Mountaineer battalion was mustered into service.¹

The hostiles, doubtless unaware of what they had to expect and anticipating only desultory fighting, as had previously been the case, prepared to resist. Under the influence of a somewhat noted leader, known as Lassac, they induced all the tribes they could to join them and in one instance at least visited refusal with dire vengeance. This was on a rancheria at Stone Lagoon, a body of salt water four miles south of Redwood creek, consisting of about forty Indians who had long been friendly with the whites. They, having declined to listen to demands of the hostiles to take up arms in their cause, were on the night of April 11 attacked by a large party of Hoopas and other mountain tribes, including probably what were left of the Wintoons, and almost all massacred. Others, who were inclined to keep out of the war, were threatened with similar treatment. While thus forcing recruits to join their ranks, the hostiles collected supplies and established posts among the mountains and at one point, on the flank of Bald mountain near Redwood creek, constructed and strongly fortified a post consisting of four log-houses pierced with loop-holes and so arranged as to command the approaches from every direction. It inclosed a spring of water and was in the center of a little prairie surrounded by hills covered with heavy timber. The structure thoroughly demonstrated the fact that the Indians, besides understanding the use of fire-arms, had learned a good deal about the art of fortification.

Such was the beginning of what was known as the "Two Years' war." The first actual engagement in it was at the Big Bend of the North Fork of Eel river, where a detachment of

¹Bledsoe's Indian Wars, &c., 400-405.

United States soldiers under Captain Henry Flynn made an attack upon a large rancheria of Indians, killing thirty and taking forty prisoners. One soldier, named Timothy Lynch, was shot through the heart with an arrow and killed. The next engagement was an attack by the Indians upon a pack train at a place known as Oak Camp near Minor's crossing of Redwood creek. In this the Indians were successful. Encouraged thereby, they a few weeks later made an attack upon another train on the way to Hoopa valley, in which a man named Charles Raymond was killed. In June the Indians made an attack in the neighborhood of Trinidad, burned several houses and got away with a large amount of booty, causing very great alarm in all that region. In July a force of about one hundred savages attacked a train of thirty-five mules in charge of twenty soldiers of the Mountaineer battalion and two packers at Minor's ranch on Redwood creek. A severe conflict ensued which lasted three hours, when five of the soldiers from Trinity county managed to climb a bluff and dislodge the enemy, who were obliged to retreat but carried off their dead and wounded. Half the whites were disabled. In the beginning of August a man named Samuel Minor, while at work in the woods in the immediate vicinity of Arcata, was shot with arrows and mortally wounded and then struck in the head with his own axe by a party of Indians. As soon as news of the attack spread around, the townspeople, anticipating a general assault, collected the women and children in a fire-proof storehouse and all the men prepared for a desperate fight. But the murderers were apparently satisfied with what they had done and made no attempt upon the town. In the beginning of September a man named Merrick and a woman named Weaver were killed by Indians in Hoopa valley and about the middle of the same month a mail-carrier, named Wallace Van Aernam, and two soldiers, named Owen Washington and William S. Terry, were killed or mortally wounded by the Indians on the trail from Hoopa valley to Weaverville.¹

Various other murders by Indians took place; but in the meanwhile the Mountaineer battalion began to make itself felt. One of its first important operations was in Hoopa valley. It having

¹ Bledsoe's Indian Wars, &c., 405-423.

been ascertained that several Indians, suspected of being implicated in the recent murders of whites, were harbored in the rancheria of the Matillins, the largest of the peaceable tribes of the valley, about a mile distant from Fort Gaston, a demand was made for their surrender. The Matillins refused to give them up. They were then notified that, unless the culprits were given up in three days' time, the rancheria would be destroyed. At the end of the period designated, the demand being not yet complied with, various detachments of the Mountaineer battalion surrounded the rancheria—Captain Ousley with one party crossing Trinity mountain and posting himself on the east, another party taking position on the west, another on the south and a fourth, consisting of artillerymen with a cannon under Major William S. R. Taylor, passing up from the north. The appearance of the cannon seems to have been too much for the Indians. As soon as they saw that Taylor was getting ready to open fire upon them they surrendered and were all taken prisoners, one hundred and fifteen in number. But this success was offset by the defeat of Captain Abraham Miller and a detachment of sixteen men on the South Fork of Trinity river, on which occasion several of the whites were severely wounded and a number of mules and other property lost.¹

On Christmas morning, 1863, an attack was made by thirty-five men of the Mountaineer battalion upon the Indian fort on Bald mountain before described. After two hours' firing from the surrounding woods; which was briskly returned from the port-holes, the whites retired and sent for reinforcements. By the middle of the next day several detachments, amounting to between fifty and sixty men, having a howitzer and shells along, all under the lead of Captain Ousley, renewed the attack and kept it up until night, by which time all the shells were exhausted. Ousley then posted pickets all around the fort, with instructions to give warning of any suspicious movements. On the morning of the third day, which proved to be Sunday, as the whites were about to recommence the attack, it was noticed that there was an ominous silence in the fort, nor was there a sign or token of the presence of an enemy to be seen. It was soon found that the

¹ Bledsoe's Indian Wars, &c., 423-428.

Indians were all gone. They had passed the pickets and escaped; and it was ascertained that there were three hundred of them. Much chagrin was felt at the result; but it could not then be helped; and all that could be done was to demolish the fort.

In January, 1864, all the military force that could be spared from other posts was concentrated at Fort Gaston in Hoopa valley and consisted of about three hundred and fifty soldiers, embracing men of the Mountaineer battalion and a cavalry company of native Californians under Captain José R. Pico, which had shortly before been sent up from San Francisco by General Wright. The campaign of the year opened with an attack by Indians upon settlements on the South Fork of Salmon river and the killing of six white and a number of Chinese miners and the robbery and destruction of two stores, from which large quantities of ammunition were obtained. The savages were about one hundred and fifty in number and divided into three bands under the lead respectively of three experienced fighters, known as "Big Jim," "Ceonaltin John" and "Handsome Billy." Upon the news of this attack, there was great activity at Fort Gaston and numerous attempts were made to corner the hostiles; but for some time they managed, through their superior knowledge of the country, to escape. A number of their rancherias were burned, but in nearly every case they had been deserted. In February, 1864, the effective military force in the field against the Indians was augmented by the addition of two hundred and fifty more men of the Californian volunteers, dispatched by General Wright, who at the same time sent along Colonel Henry M. Black to relieve Colonel Whipple and take general command. The change of leaders made little or no difference; depredations on the one side and chasing and driving of the hostiles on the other continued; and to general appearance the campaign was not turning out satisfactorily.

But the Indians were steadily losing ground. They could not stand being driven from pillar to post by constant skirmishes. The steady and persistent activity of the whites, knowing no cessation night or day, told upon them. Being compelled to divide up into small parties and having no time or opportunity to recuperate their forces, they at length became more and more

demoralized; and the conflict began going strongly against them. In Mattole valley a company of twelve men of the Mountaineer battalion in a series of skirmishes killed fourteen hostiles and took twenty-one prisoners. In the Salmon river region there were a number of severe fights in which several whites and many Indians were killed. On the ridge between Mad river and Redwood creek an attack was made upon a camp of hostiles, of whom three were killed and five taken prisoners. On Humboldt Ridge near the head-waters of Elk river an attack upon another camp resulted in the killing of six hostiles and taking of five prisoners. In the vicinity of Fort Bragg in Mendocino county Captain William E. Hull marched against a number of rancherias and destroyed them, killed twenty-five hostiles and took fifteen prisoners; and the effect of his success upon others was so great that one hundred and seventy-five came in and surrendered. In July Colonel Black was called to West Point, New York, and Colonel Whipple reinstated in command of the Humboldt district. He continued to pursue the same policy as before, giving the Indians no rest. Here and there a few scattered hostiles would commit an outrage; but the war was rapidly approaching its close. The Indians had lost their best men and could not make any further resistance. In January, 1865, all the hostiles of Trinity county surrendered and were conducted to the south peninsula of Humboldt bay previous to being removed to the reservations, and soon afterwards the last remnants in Klamath and the other counties that had been involved in the Indian troubles were obliged to follow. On June 14, 1865, the work for which it was organized having been completely accomplished, the Mountaineer battalion was mustered out of service. It had deserved well of the country.¹

In February, 1865, Austin Wiley, then superintendent of Indian affairs for California, under authority of an act of congress of April 8, 1864, located and took possession of the whole of the Hoopa valley as an Indian reservation. As in the case of Smith's river reservation, a number of squatter rights and improvements had to be bought out by the government to secure the land. At the same time there was very great opposition in various

¹ Bledsoe's Indian Wars, &c., 429-451.

parts of the Humboldt district to the selection, it being feared that the Indians, as in other cases of reservations, would soon escape and renew their depredations. But the work of the Mountaineer battalion had been thorough; and the tribes, that had formerly held sway in the rough mountain regions between Mount Shasta and the ocean, had become so weak and powerless that there was little or nothing more to fear. Not only was their strength exhausted and their spirit broken, but there was no way in which they could recover or recuperate. Except such as were perfectly peaceful and could be relied upon as dependents upon the whites, they were all, to the number of about two thousand, placed upon the new Hoopa valley reservation; and there they remained, without causing any further annoyance or anxiety to the whites. The so-called Two Years' war was at an end and, so far as the Indians in the Humboldt district were concerned, there was thenceforth permanent and undisturbed peace.¹

¹ Bledsoe's Indian Wars, &c., 473-477.

CHAPTER XIII.

MODOC WAR.

THE last and most remarkable of all the Indian troubles in California, and in some respects the most remarkable conflict that ever took place between whites and Indians, was what was known as the Modoc war. This extraordinary series of events, which in the spring and summer of 1873 attracted the attention and, it may be added, the amazement of nearly the entire world, can not be understood without recurring to occurrences of long prior date. In 1850 the entire northeastern portion of the state was organized into what was then known as Shasta county with the county seat at Reading's ranch. In 1852 the northern portion of this territory, commencing at the Devil's Castle near Soda Springs on the upper Sacramento river and running thence eastward to the state boundary was created into Siskiyou county with its county seat at Yreka.¹ The name Siskiyou was said to have been derived from the Siskiyou mountains and the name of the mountains from a ford on the Umpqua river in Oregon, where there were six exposed rocks so distributed in the stream as to form easy and convenient stepping-stones to cross. Michel Laframboise and other French Canadian trappers of the Hudson's Bay Company crossed it in 1832 and called it the "six cailloux," which in their language meant six stones; and the Americans adopted the name, and substantially the pronunciation, but changed the spelling to Siskiyou.² The name Yreka appears to have been Indian and meant the white one, referring to Mount Shasta, from which it is distant northwestward about thirty-five miles. To the northeast of Mount Shasta about forty-five miles is Rhett Lake, sometimes called

¹ Stats. 1850, 62; 1852, 233; Hittell's Gen. Laws, 1178.

² Journal Cal. Legislature, 1852, 314.

Tule Lake, a body of fresh water about thirty miles long north and south by fifteen wide east and west, lying partly in California and partly in Oregon. On the southwest of the lake are the famous lava beds and emptying into it on the east side is Lost river, a stream, partly subterraneous, which with a great bend connects it with Clear Lake further east. South of the mouth of Lost river on the east shore of Rhett Lake is Bloody Point and south of that Black Bluff.¹

In September, 1852, an immigrant train consisting of sixty-five persons, men, women and children, on their way from Oregon to California, upon reaching that part of the road which touches the east side of the lake at Bloody Point, were attacked by Modoc Indians and indiscriminately butchered. Neither age nor sex was spared; but all were killed with circumstances of great barbarity, except two young girls one of fourteen and the other of twelve years, and one man who escaped. These girls, it was said, became the wives of two of the captors; but finally Modoc squaws became jealous of their influence and murdered them. When the story of this massacre reached Yreka, it created very great excitement. No one stopped to inquire what provocation had been given or how many Indians had previously been shot down and scalped by whites; but there was at once a cry for vengeance and extermination; and a company of armed miners and others was immediately raised to carry out the proposed work of destruction. At the head of these miners was a man, known as Ben Wright, a citizen of Yreka, active and energetic and regarded as a person of good standing. In the accounts of Wright's proceedings there are several contradictions; but according to those most favorable to him, they were so atrocious that a darker stain could hardly be given by any misrepresentation. It was reported that he purchased a quantity of strychnine and, going into the Modoc country east of Rhett Lake, invited a number of Indians to meet him near Black Bluff under the pretense of making a treaty. As a preliminary to negotiations he prepared a feast, in which he seasoned the food for the Indians with the poison; but it proved to be so much adulterated that, with the exception of one man, it did not kill.

¹Wigwam and Waroath. &c., by A. B. Meacham, Boston, 1875, 388-391.

This part of the story, though it seems almost incredible, was vouched for by Yreka citizens, one of whom also claimed that he had personally heard Wright cursing the druggist for selling him adulterated strychnine. But, whatever may have been the truth in this respect, it seems certain that Wright, under the pretext of making peace, induced the Indians to meet him at Black Bluff and that he threw them off their guard by the use of a flag of truce and smoking the pipe of peace with them. It was a rainy day. The Indians, of whom there were forty-six, sat down to pull off their wet moccasins and dry their feet, and had unstrung and laid aside their bows, when Ben Wright, drawing a pistol with each hand, began shooting his too-trusting victims; and his example was followed by his companions. In a very short time all the Indians were killed except five, who managed to escape. This exploit seems to have satisfied Wright's desire for glory; he at least did not go any further or engage in any more Indian fighting, but returned to Yreka. And not long afterwards, in supposed reward for his skillful services in dealing with a difficult question, he was appointed by the administration at Washington an Indian agent.¹

From the time of the Ben Wright massacre—for Wright's name became indissolubly connected with the infamy—hostilities on the part of the Modocs continued until October, 1864, when a treaty was entered into, by the terms of which the Modocs agreed to accompany their neighbors, the Klamaths, to the Klamath Indian reservation on Upper Klamath Lake in Oregon. At this treaty the Modocs were represented by Old Schonchin, Schonchin John his brother, and Kientepoos or Captain Jack, as he on account of his resemblance to an old mariner in Yreka was ordinarily known; and in accordance with its provisions all the Indians, who were represented, were removed to the reservation and shared in the distribution of goods made by the agents of the United States government. But in a very short time Captain Jack began to grow restive. He had been recognized at the treaty as a sub-chief; but he was ambitious for further and fuller honors. He had been born on Lost river, the son of a former head-chief of the Lost River Modocs; and he felt himself not

¹ Meacham's Wigwam and Warpath, 298-301, 450, 677.

only the born leader of that people but capable of regaining and retaining for them the heritage in the country around Rhett Lake which he claimed they had unwittingly been tricked into conveying away. Finding a number of his companions as discontented as himself, though he could not shake the constancy of Old Schonchin, he managed to persuade Schonchin John, and finally, raising the standard of revolt, he and his followers left the reservation and took up their abode in their old haunts on Lost river. In 1865, 1866 and 1867 attempts were made on the part of reservation and other officials to induce him to return; but on each occasion he either eluded or defied the authority of the government; and nothing further for the time was done. In the latter end of 1869 Alfred B. Meacham, superintendent of Indian affairs for Oregon, and several other officers connected with Oregon reservations, together with a body of soldiers from Fort Klamath, made a fourth attempt and by taking Captain Jack unprepared and at a disadvantage succeeded in inducing him and his people, about two hundred in number, to go back to Klamath reservation, where they arrived near the end of December, 1869, and again received a distribution of goods from the United States government.¹

The Modocs were said to have been originally a branch of the Klamaths; but they had revolted and gone off for themselves; and from that time they heartily hated the Klamaths. It was therefore perhaps as absurd a thing as was ever done in the management of the Pacific Coast Indians to locate the two fierce tribes on the same reservation. They were not friends and they could not be expected to be well disposed towards each other. Though there was no open hostility between them, the Klamaths looked upon the Modocs as inferiors and interlopers, whom they had to tolerate because they were obliged to. When the Modocs arrived upon the reservation they had been told that they could cut lumber for building their houses and other purposes on a certain mountain; but the Klamaths said, "It is our timber. You may cut it; but it is ours. You may make rails; but we want some of them." This of course led to a quarrel. Captain Jack complained to the reservation authorities; but they,

¹ Meacham, 302-334.

instead of paying attention and compelling the Klamaths to behave themselves, refused to be annoyed and ordered Jack back to his work. The result was that the Klamaths, having received neither punishment nor reprimand, became more overbearing than before; and the quarrel was renewed. Captain Jack again complained; and the authorities were then obliged to take notice of the trouble. But their remedy, instead of restraining the Klamaths, was to remove the Modocs to another portion of the reservation and order them to commence again. They consented and were engaged in cutting new timbers, when the Klamaths again interfered, saying to the Modocs, "You can stay here; but it is our country. Your horses can eat the grass; but it is our grass. You can catch fish; but they are our fish." When reminded of the treaty, by the terms of which the Modocs were equally entitled to all the rights and privileges of the reservation, the Klamaths answered, "Yes, we know all that. You can have timber, grass and fish; but do not forget that they are ours. It is all right. We will let you stay!"¹

Captain Jack complained a third time to the authorities, but with no better outcome. He had already told Meacham that he had no faith in what Meacham said and that all the whites, as a rule, were liars and swindlers. He soon made up his mind that the reservation authorities were not only as bad as other whites, but that they had a personal grudge against himself. He therefore resolved a second time to leave the reservation; and, calling the Modocs together, he offered to take with him all who were willing to go. A long and stormy discussion ensued, which resulted in a vote by a large majority in favor of leaving the reservation and going back to their old homes on Lost river. Old Schonchin and Schonchin John, his brother, with some of the people, remained; but most of them accompanied Captain Jack to Rhett Lake; and from there he and a few others, taking along their young squaws, proceeded in the spring of 1870 for a sojourn to Yreka, where he seems to have had a friend and adviser in Elijah Steele, who had been acting superintendent of Indian affairs in that part of the country in 1864. But the more special object of this visit to Yreka appears to have been not so much to counsel

¹ Meacham, 342-346.

with Steele as to make money by selling the squaws and with the proceeds purchase supplies and particularly arms and ammunition. This traffic with their women seems to have been an old practice. Captain Jack himself had a sister, generally known as Queen Mary, whom he was said to have repeatedly sold. She was reputed handsome; but every white man that purchased her soon repented of his bargain. She was not only high-strung; but, like queens in general, she was an expensive luxury to keep, always costing a great deal more than she was worth. No objection, however, seems to have been ever made to taking her back when returned; because there would be an opportunity of selling her over again; and, according to common report, she had thus been sold by Captain Jack five or six different times within ten years.¹

In the spring of 1871 the reservation authorities, finding that they had done an imprudent thing in allowing Captain Jack to depart, made an attempt to get him back. For this purpose they divided the Klamath reservation into distinct agencies; and, while they assigned the western portion to the Klamaths, they set aside a part of the eastern portion for the exclusive occupation of the Modocs, so that there could be no further communication between them and the Klamaths. Old Schonchin, who had removed to this selected portion with the Modocs that remained with him, was sent after Captain Jack; and Captain Jack, upon visiting and inspecting the new quarters, seemed to think favorably of the proposition. But just about that time an unfortunate event occurred which altered his intention in that direction, if he had any, and entirely changed the expected course of events. It appears that not long before, he had employed an Indian doctor or medicine-man to attend a sick child and paid him his fees in advance. Among the Modocs, as well as certain other Indians, such a contract was understood to be a guaranty to cure; and in case of failure the doctor's life was to be forfeited, if the friends of the deceased demanded it. The child died; and Captain Jack, either with his own hand or that of an agent, killed the unsuccessful practitioner. This, by Modoc law and custom, was in entire accordance with the eternal fitness of things; but by the

¹ Meacham, 313, 326, 327, 346-348.

laws of the white man it was murder; and the friends of the dead doctor demanded that Captain Jack should be dealt with by the white man's law. And upon proper representations an order for his arrest was in fact issued. If events had been allowed to take their ordinary course, though Captain Jack stormed and fumed at the proposed arrest and threatened all sorts of savage resistance, it is likely that he would have been seized without any very great trouble, tried, convicted and imprisoned for a few years or possibly for life—in the same manner as other Indians have undergone punishment in California for the similar offense of killing their unsuccessful doctors; and the whole Modoc business would have been substantially settled.¹

But at this point Meacham, in attempting to carry out what was called the "peace policy," proposed that a new reservation should be set aside near the mouth of Lost river; that Captain Jack should be induced to remove to it, and that, as a part of the programme, the order for his arrest should be revoked. In pursuance of this plan Brigadier-general Edward R. S. Canby of the United States army, who was in military command of the department of the Columbia, was applied to; and he issued the orders desired. Meacham at the same time appointed his brother, John Meacham, a sort of commissioner to visit Captain Jack and induce him to accept the new terms and in the meanwhile to return to the Klamath reservation until further arrangements could be perfected at Washington. But Captain Jack, though willing to accept the Lost river reservation, refused absolutely to return to Klamath; and nothing more could be done for the time except allow the business to remain in a suspended and very unsatisfactory state. While matters were in this position, Meacham was removed from office and T. B. Odeneal appointed superintendent of Indian affairs for Oregon in his place. Odeneal, soon after his appointment, wrote to Washington for instructions and was ordered to remove the Modocs to the Klamath reservation, "peaceably if he could but forcibly if he must." He at once attempted the peaceable plan; but the unwise policy that had been pursued so long made the Indians believe that they only had to stand out against the government to get almost anything they

¹ Meacham, 349, 350.

wanted. They therefore refused to obey or even to meet Odeneal, adding that their friends and advisers at Yreka had told them to stay where they were and that they intended to do so. Upon this insolent answer, Odeneal applied to the commander of Fort Klamath for a force to compel them to go to the Klamath reservation; and Captain James Jackson was on November 28, 1872, dispatched with thirty-five United States soldiers from the fort to see to the execution of the order.¹

Captain Jackson proceeded at once for the Modoc camp on Lost river and on his way was joined by about twenty-five white volunteers, armed with Henry rifles and revolvers, who went to see and perhaps take part in the fun. They arrived at Lost river about daybreak on November 30, 1872. Captain Jack and fourteen other Modocs with their families were on the west bank of the river while the others with their families were on the east side. Among the fourteen with Captain Jack were Schonchin John, who had joined him; Scar-faced Charley, so called on account of a deep scar on his cheek; and a half-brother of Captain Jack, known as Black Jim, so called on account of his dark color. On the other side were Curly-haired Doctor; Boston Charley, so named on account of his light color, and Hooker Jim, so called on account of having lived with a white man named Hooker, and others with their families. It was to the west bank of the river that Jackson marched his men. He took the Indians by surprise; but they were soon on their feet. Jackson ordered them to lay down their arms; and they all did so, except Scar-faced Charley. A parley ensued and it appeared that a satisfactory arrangement had been arrived at when Jackson, turning to Scar-faced Charley, commanded him to put down his gun. He refused. Jackson thereupon ordered a lieutenant to disarm him; and, as the lieutenant advanced to do so, the Modoc drew his pistol and fired at him. In an instant all was in confusion. The Indians seized their weapons and scattering in the sage-brush next their camp, began firing back at the soldiers, who had opened on them. The fight thus commenced lasted three hours, at the end of which time Captain Jack led off all his men with the exception of one, who was killed. Jackson lost one man killed and seven wounded

¹Ex. Doc. 43 Con. 1 Sess. H., No. 122, 5-35; Meacham, 350-365.

—Meacham said ten killed and five wounded; and, on the re-appearance of the Indians not long after the fight, he left them in possession of the battle field.¹

The volunteers, who had accompanied Jackson's forces to "see the fun," had posted themselves on the east bank of the river. When the firing commenced the Modocs on the east bank rushed down with their arms for the purpose of crossing to the assistance of Captain Jack. The volunteers attempted to prevent them by seizing their canoes; but in a very few moments they found themselves involved in a fight on their own account, which entirely withdrew their attention from the other side of the river; and the result was that, while the Indians lost only a squaw and an infant child in her arms, the volunteers lost three or four of their number killed. As soon as possible, they too abandoned the field and followed Jackson. On the other hand, the Modocs, at the orders of Captain Jack, who had thus in his first fight displayed extraordinary military talent and approved himself fit to lead them, gathered up their families, horses and other property and moved off to the lava beds on the southwest side of Rhett Lake—a country, some forty miles in general diameter, terribly rough and broken, full of irregular and jagged rocks, ledges and caves, where a handful of determined men might successfully resist many times their own number of men not acquainted with it and not expert in methods of Modoc warfare. Soon after getting there, they were joined by fourteen other Modocs and their families, who upon hearing of the fight cast their lot with the victors. Among these fourteen were Shack-nasty Jim, so called from his mother who was known as Shack-nasty; Steamboat Frank, so called from his squaw, who on account of her great size and habit of puffing and blowing was called Steamboat; Bogus Charley, so called from having been born on Bogus creek, and Ellen's man George.²

Soon after the fight Curly-haired Doctor, Hooker Jim and Steamboat Frank led a small war party against the white settlers on the eastern shore of Rhett Lake and killed twelve men and a boy. Among the victims was a man named William Boddy and

¹ Ex. Doc. 43 Con. 1 Sess. H., No. 122, 35, 36, 42-44; Meacham, 365-370.

² Meacham, 365-374.

his son-in-law named Nicholas Shearon; also Henry Miller and William Brotherton. Upon killing Boddy, which appears to have been bloody work, the savages made their appearance at his house and calling out the women said, "This is Boddy's blood; but we are Modocs; we do not kill women and children. You will find Boddy in the woods. We will not harm you." And they acted in much the same way with the others, the boy being killed only because he resisted them. From these circumstances it was supposed that the murders were committed by way of vengeance against the settlers for not giving information of Jackson's march; but it was reported that, when the murderers arrived at the lava beds, Captain Jack denounced their work and spoke in favor of giving them up to the whites. There was probably not a particle of truth in the report; but, whether so or not, Captain Jack was very glad to avail himself of their services in the conflict that followed. His whole band in the lava beds, including these men, amounted all told to only fifty-one fighting men; and, as will soon be seen, he had none to spare.¹

Upon news of what had thus taken place on Lost river and Rhett Lake, the state of Oregon called out several companies of volunteers and the state of California one, making in all about four hundred men, and sent them to the lava beds to assist the defeated regulars under Jackson. As they approached, the Modocs held a council as to what they should do. According to a report vouched for by Meacham, which is not however altogether reliable, Captain Jack and Scar-faced Charley spoke in favor of peace, while Schonchin John and Curly-haired Doctor advocated war—open war, war to the bitter end. Schonchin spoke of the Ben Wright massacre and insisted that no faith was to be placed in the whites. He expected to die; but he did not purpose to die first. He wanted to fight and he intended to fight. On the other hand Curly-haired Doctor ridiculed the whites as soldiers. He said they had been tried at Lost river, and what had they accomplished? Nothing. They did not know how to fight; they shot their guns off in the air. He would make a medicine that would turn their bullets away from the Modocs. The Modocs should not give up; they would kill

¹ Ex. Doc. 43 Con. 1 Sess. H., No. 122, 43, 44; Meacham, 374-376.

all that could come against them. And upon a vote being taken, the advocates for resistance polled thirty-seven against fourteen votes, nearly three to one. Whatever may have been the truth as to this council, it is certain that Captain Jack prepared for a bitter resistance and it seems probable enough that Curly-haired Doctor went through a series of incantations, making night hideous, preparing the medicine that was to turn the white bullets aside.¹

On the morning of January 17, 1873, the soldiers advanced under the general lead of Lieutenant-colonel Frank Wheaton. They appear to have supposed that they were going to have easy work. Wheaton at least soon after reaching Rhett Lake, referring to Captain Jack, said that he proposed making "short work of this impudent and enterprising savage and that he intended to stick to the Modoc band until General Canby should be satisfied with the results accomplished." "If the Modocs," he continued, "will only try to make good their boast to whip a thousand soldiers, all will be satisfied." He had his wish. The Modocs did not fly before him. He had not advanced his soldiers far into the lava beds before Captain Jack and his band, who were concealed at points of vantage among the rocks, opened a deadly fire upon them. They recoiled for a moment and then upon the word of command returned the fire. But it was noticed that while the Modoc aim was horizontal, so that each ball took effect, that of the whites was directed upward as if their enemies were in the cliffs above. It almost seemed as if Curly-haired Doctor's medicine was proving effective. After the first fire the whites advanced again. They had as yet seen no Modocs; but they had heard and felt the Modoc rifles; and a number of them were lying dead or wounded on the rocks. For a moment they imagined the enemy had retreated; but the next moment another blazing line appeared in front and another line of soldiers fell. Another advance with the same result; and still no enemy could be seen, while their murderous fire was playing havoc with the whites. Such slaughter could not be endured. A council of war was hastily called and the order given to retreat. Some of the wounded begged not to be left alive to fall

¹ Meacham, 384, 385, 395-398.

into the hands of the savages; but they begged in vain. The bugles sounded the word and the order to withdraw passed along the lines; and the main effort then was to reach a position, safe from the Modoc fire. Thirty-five whites had been killed and a number wounded. The Modocs scalped their victims; and after the fight their squaws went around stripping the dead. It was said they found two wounded men still living and stoned them to death.¹

The Modocs do not appear to have lost a single man. Notwithstanding the whites numbered over four hundred and the Modocs only fifty-one or at most fifty-three, the conflict presented to the world the astonishing spectacle of what may be called the greatest amount of military mismanagement on the part of the whites in comparison with the greatest amount of military skill on the part of the Indians. Well might the Curly-haired Doctor exult on the morning after the battle and exclaim, "I promised you the medicine that would turn aside the white man's bullets. Where is the Modoc that was struck? I told you the Great Spirit was on our side. Your chief's heart was weak; he wanted peace: mine was strong; I wanted war. We can kill all the whites that come." Schonchin John followed in much the same strain. Captain Jack on the other hand was more moderate. He said the whites were many and would not give up; no matter how many were killed, others would come in larger numbers than before, and in time all the Modocs would be killed. But he had made up his mind to fight as long as the Modoc heart cried "fight" and not to make peace until the Modoc heart cried "peace." And that night in the lava beds, the squaws in the meanwhile having collected great piles of sagebrush, there was a grand scalp dance around the central fire in celebration of the victory, in which the various braves, painted in black and red, flourished their still bleeding trophies and worked themselves up into an intoxication of triumph.²

It was only a few days after this fight that the "peace commission," as it was called, was proposed at Washington. The starter of the project appears to have been General E. L. Apple-

¹ Ex. Doc. 43 Con. 1 Sess. H., No. 122, 48-63; Meacham, 399-407.

² Meacham, 408-410.

gate of the Oregon militia. According to his own account, and in his own language, he "meddled" in the matter because he thought he ought to know something about Indians and Indian affairs, and he believed he did. He was of opinion that a wrong policy, evidently meaning coercion with the Modocs, might involve the country in a tedious and expensive war and he wished to prevent it. He believed in the "pow-wow" policy. He considered that "jaw-bone," as he expressed it, was cheaper than ammunition; and he therefore proposed a peace commission, with his friend Meacham at the head of it, to turn the Modoc business into a "big talk" instead of a big war. With this object in view he and other consenting Oregonians then in Washington, on January 25, 1873, called upon Columbus Delano, United States secretary of the interior, and urged the appointment; and a few days afterwards the peace commission was ordered and its membership made up, after some changes, by the appointment of Alfred B. Meacham, chairman, and Jesse Applegate and Samuel Case of Oregon as members. Meacham was in Washington at the time. He asserted that he accepted the post with reluctance and only on the urgent solicitation of the secretary of the interior. However this may have been, he almost immediately left Washington and proceeded to the head-quarters of General Canby at Fairchild's ranch on Hot creek, twenty-five miles west of the lava beds, where he arrived on February 19, 1873, and found Applegate and Case waiting for him. The secretary of the interior had provided, in making his appointments, that General Canby was to act as counselor to the commission; and, as that officer was also present and consented to act, the peace commission immediately organized and immediately proceeded to its "pow-wow" and "jaw-bone" business.¹

After a few abortive attempts to open negotiations with the Modocs, it was agreed that Elijah Steele of Yreka should be sent for; and at the same time Canby by telegraph to Washington requested and procured the appointment of A. M. Rosborough of Yreka, judge of the ninth judicial district of the state, as a fourth commissioner. Upon their arrival in camp, it was resolved that Steele should visit the lava beds and offer terms

¹ Meacham, 414-422.

of peace, including amnesty for all offenses on condition of immediate removal to Angel Island in San Francisco harbor as prisoners of war, to be fed and clothed at government expense, and eventual removal to some distant reservation to be selected by the Modocs. Steele fully believed that he could induce them to accept and on his mission to the lava beds took along, besides John Fairchild and a couple of interpreters, a number of newspaper reporters with the apparent object of recording and publishing to the expectant world an early and complete account of the negotiations that were to take place. There was, however, not much history to record. Steele, flanked by his companions, met the Modocs and, after listening to a long speech by Captain Jack, made his proposition of removal. It seems likely that on account of Steele's being regarded as a good friend by the Indians, his speech was apparently well received out of compliment to him; but he erroneously imagined that he had entirely succeeded, and particularly when a number of the Modocs, including Queen Mary, Hooker Jim, Bogus Charley, Boston Charley and Shacknasty Jim, were sent to accompany him back to headquarters. On approaching that place, Steele, who was in advance of his companions, shouted out in a loud voice, "They accept peace;" and immediately almost everybody commenced writing dispatches, newspaper articles and letters, announcing the glad tidings. There was for a few moments a general feeling of relief. But in the midst of the joy, Fairchild threw a damper upon it by quietly remarking that he did not think the Modocs had made any agreement to accept the terms offered. It was true they had responded to Steele's speech; but they had not accepted his propositions. They had certainly not agreed to surrender.¹

Steele thought he could not be mistaken and called for the report of one of the newspaper correspondents, from which it appeared that the Modocs had greeted his speech with applause. Next he called for a report from the Modocs, who had escorted him back to head-quarters; but they replied that they had simply come to hear, not to talk. Notwithstanding their ominous silence, Steele felt so confident that he proposed to return next

¹ Meacham, 422-428.

day to the lava beds and reassure himself. The next morning accordingly he started, taking along one of the newspaper reporters. He also asked Fairchild to accompany him again; but Fairchild declined with a very significant swinging of his head from side to side, at the same time closely shutting his eyes. Steele nevertheless proceeded to the lava beds; but, upon getting there, he found not only that he had been altogether wrong in his opinion, but that he and his reporter were in very great peril. The Indians, after talking over his proposition to deliver themselves over as prisoners of war, had apparently made up their minds that he was a traitor to them and became infuriated. A council was called, at which Schonchin John charged him to his face with falsehood and intimated that he would not have another opportunity of misrepresenting the Modocs. All Steele could do was to procure a postponement of the council until morning and then induce the savages to allow him to depart upon a promise to return the next day and bring all the commissioners with him. He was thoroughly impressed with the seriousness of the situation, and was glad to get away on any terms. And when he got back to headquarters, he was said to have looked considerably older than when he left the day before. He admitted that he had been entirely mistaken as to the feelings of the Modocs and stated that he had only succeeded in escaping with his life by promising that all the commissioners should visit the lava beds the next day unarmed. He had no idea, however, that they would do so. He felt certain, if they went, that they would be murdered. As a matter of fact, the Modocs, instead of being disposed to peace, were thirsting for war. They considered themselves a match for the whites in arms and were whetting their appetite for blood by recalling the incidents of the Ben Wright massacre. It was plain they meditated treachery.¹

Upon Steele's return, Meacham telegraphed to Secretary Delano at Washington the facts reported by him and the opinion of the commissioners, concurred in by General Canby, that treachery was certainly contemplated and the mission a failure, and asking for further orders. Delano telegraphed back that he did not

¹ Meacham, 428-431.

believe the Modocs meant treachery; that the mission ought not to be a failure; that he thought he could understand why the Modocs were unwilling to confide in the commissioners, and that they should continue negotiations. At the same time he added that he would consult the president and have the war department confer with General Canby, as if he intended to turn the matter over to the military arm of the government. Meanwhile the occupants of the lava beds, finding that the commissioners were not going to visit them as promised by Steele, sent word that, if General Canby would meet them half way with wagons and teams, they would come out and surrender. This proposition, on consultation among the commissioners, was accepted; but the day before the surrender was to have taken place a second messenger from the Modocs announced that they were burning their dead and could not get ready to surrender for two days more. Canby acquiesced in the modification of the agreement and sent word by the returning messenger that the teams would be at the half-way station on time. Accordingly on the morning fixed upon they were dispatched under charge of Steele; and so confident was Canby and various others of the promised surrender that tents were prepared for the expected newcomers, one of which was named "Captain Jack's marquee" and another "Schonchin's marquee," and so on. Commissioner Applegate also felt so certain that, thinking he could be of no further use, he left for his home and on the way reported that the Modocs had surrendered and the war was over. But Fairchild, the hard-headed, who accepted nothing on trust, again shook his head. He said he had no faith in their surrender. He did not think they were ready to go to Angel Island as prisoners of war—not just yet. And he was right; for in the evening Steele and the wagons returned alone; and the Modocs sent another messenger announcing that they could not agree among themselves and wanted more time to think the matter over.¹

Secretary Delano at Washington, upon being informed of these new facts, telegraphed back to continue negotiations. But Commissioner Case had apparently had enough of the business and

¹ Meacham, 431-436.

resigned, while Commissioner Rosborough returned to his duties on the bench at Yreka. General Canby, who by this time seemed to be satisfied that the Modocs were not to be trusted, sent them word that he would tolerate no more trifling and moved his headquarters to Van Bremer's ranch, some miles nearer the lava beds. It had been agreed between both parties at the commencement of the negotiations for peace that during their pendency there was to be an armistice and no act of aggression committed or permitted by either side. But notwithstanding the agreement, it appears that a company of the new recruits, who were coming in daily to reinforce Canby, captured about thirty Modoc horses near the lava beds and, if Meacham is to be believed, Canby, when remonstrated with by him as to the violation of the armistice, distinctly refused to give the horses up, saying that they would be well cared for and turned over when peace should be made. About this same time the Rev. Eleazer Thomas, a doctor of divinity of the Methodist church stationed at Petaluma, was, at the request of United States Senator Aaron A. Sargent of California, appointed on the peace commission; and Leroy S. Dyer, Indian agent at the Klamath Lake reservation, was also appointed. Dyer was supposed to know something about the Indians; but Dr. Thomas had had no experience whatever.¹

Upon the arrival of the new commissioners, several attempts were made to secure a meeting between them and the principal Modocs, but without result. Canby then sent word that he proposed moving his army up to the edge of the lava beds, but that he would not commence hostilities unless compelled to do so. Captain Jack on the other hand answered that he did not propose firing the first shot; but he would like to have his horses returned. Not long afterwards a company of Modoc women arrived making the same request; but, though allowed to see and caress the animals, they were not allowed to take them away. A few days subsequently Canby, pursuant to his notice, moved his camp to the edge of the lava beds, not more than two miles from the spot occupied by the Modocs. The proximity seemed to hasten negotiations. The next day the Modocs agreed to a meeting; and it was held at a point about midway

¹Meacham, 423, 436, 437.

between the two camps. But, as might have been expected, there was little or nothing of importance done. While the talk was progressing a rain-storm came on, when Canby remarked that they could not talk in the rain; but Captain Jack replied that it was a small matter—that he himself would not melt, and that General Canby was much better clothed than he was. It was afterwards supposed that there were at that time indications of treachery; but the whites did not notice them; and at the proposition of Canby it was agreed that a council tent about midway between the camps should be erected for further negotiations. On the following day accordingly a council tent was put up in the lava beds a little less than a mile from the camp of the whites and a little more than a mile from the camp of the Modocs. Care was taken to locate it so as to be in full view of the signal station on the bluff above the camp of the whites.¹

Among the whites, and employed by them as interpreters, were a white man originally from Kentucky, named Frank Riddle, and his Modoc wife, called Winemah but usually known as Toby. According to report Riddle had bought her as a girl from a Modoc chief some twelve years previously. However this may have been, he had afterwards, on the demand of Meacham, married her; and she was true and faithful to him. For some reason or other, Canby did not feel disposed to trust either of them, although, as was shown in the sequel, they were perfectly reliable. Both Toby and her husband had already informed Meacham and also Canby that the Modocs were playing false and could not be relied on; but it appears that Canby did not believe them and Meacham, though he professed to believe, was too weak to act effectually on his belief and allowed the tragedy, which he pretends to have anticipated, to take its course without much interruption. Meanwhile the Modocs knew all about the accessions of white soldiers that were arriving and inspected the arms and munitions of war that were being collected and especially the mortars and shells that were designed to dislodge them. But it was not until they found that a hundred Warm Springs Indians, old enemies of theirs, were about to take the field on the side of the whites that they got excited and

¹ Meacham, 437-443.

determined to bring matters to a crisis. On April 5, Captain Jack sent word that he would like to see Meacham and Fairchild at the council tent; and, upon meeting them, he pretended to be afraid of Canby on account of his military position and of Thomas because he was a "Sunday-doctor;" and he wanted them to go away and take along the soldiers, and that then the war would stop. When told that there would be no peace until he gave up the men who had murdered the white settlers on the east side of Rhett Lake for trial, he asked who would try them, white men or Indians. When answered that they would be tried by white men, he asked whether the whites who had murdered Indians in the same neighborhood would be given up to be tried by Modocs. When answered that it could not be done, because the Modoc law had been superseded by the law of the whites and was dead, he asked whether the white murderers would be arrested and also tried by the white law. In putting these questions he of course knew that a fair and honest answer could not be given, and he closed the conference by saying that though he was willing to surrender and put himself in the power of the whites, his people were not willing to do so. At the same time he wished to call the attention of the whites to the fact that they had not kept faith with him. They had agreed to let matters stand as they were and make no further preparations for war; and he had accordingly done nothing whatever, while they had all the time been collecting arms and men. It was agreed that neither party should commit any act of aggression against the other. He had kept his promise: had the whites kept theirs? The whites pretended they came to make peace: did their crowds of soldiers and collections of engines of war look like making peace?¹

Captain Jack then, rising to his feet, pointed to a dark spot on the further shore of the lake. It was Black Bluff. At that place, he said, when he was a small boy, forty-six of his people had met Ben Wright. Ben Wright also pretended that he wanted to make peace. He even smoked the pipe of peace with his intended victims; and they believed him. He threw them off their guard; and they laid aside their arms. How many escaped the effect of

¹ Meacham, 316-320, 443-450.

that fatal confidence? Raising his open hand spread out: "Only five," he exclaimed, "and one of them, Te-he Jack, is now in the Modoc camp yonder." Meacham pointed to Bloody Point and asked how many whites escaped at that place; but Captain Jack answered by saying that the Indians and the whites were at open war then: they were not making peace. Meacham replied that Ben Wright did wrong to kill people under a flag of truce. "Yes," rejoined Captain Jack, "you say it was wrong; but your government did not say it was wrong. It made him a tyee, a big chief." Then, rising to his full stature, Captain Jack continued, "I am only one man. But I am the voice of my people. What their hearts think, I speak. I do not wish war. But I want to be a man. You deny me the rights of a white man. My skin is red; but my heart is the heart of a white man. I am a Modoc. I am not afraid to die. But I will not fall on the rocks. When I die, my enemies will be under me. Your soldiers began on me when I was asleep on Lost river. They drove me to these rocks like a wounded deer. Tell your general that I am in the Modoc camp. Tell him that he need not look for me on Lost river or on Shasta mountain. Tell him I am in the camp yonder. I want him to take his soldiers away. I do not want to fight. But I am a Modoc. I am not afraid. I can show him how a Modoc can die."

Upon the report of this interview by Meacham at head-quarters, Canby, Thomas and Dyer seem to have been under the impression that Captain Jack was desirous of surrendering, but was prevented by his people. It was accordingly determined that Toby Riddle should be dispatched to him with a message that if he and those in favor of peace would come out, the troops should be placed in such a position as to protect them. But on her arrival at the Modoc stronghold Captain Jack refused a private conference, saying that he wanted his people all to hear. According to her report a vote was then taken on the proposition and Captain Jack and eleven others voted in favor of accepting the terms, whereupon the majority on the other side gave warning that any attempt on the part of the peace party to escape would be attended with chances of death to all who dared it; and Captain Jack thereupon replied formally to her message by saying

that he was a Modoc and that he could not and would not leave his people. It is likely, however, that Toby did not fully understand the nature of the proceedings. It can not be believed that Captain Jack was in favor of surrendering on the terms offered. All his actions and his words indicated the contrary. Meacham, it is true, deemed it very plain that he wished to do so but dared not on account of fear that his own life and that of his family would pay the penalty. But there is no reason to believe that Captain Jack could not have surrendered and taken his family with him, if he had so desired. He had resources enough, if he had wished to call them into requisition. He certainly had not a touch of cowardice in his composition. As for Meacham, on the other hand, it can hardly be claimed, with all his efforts to magnify and make a hero out of Captain Jack, that he ever rose to a full appreciation of his character.¹

When Toby started out on her return to Canby's camp, one of the Modocs, said to be an advocate of peace, concealed himself behind a rock and, as she passed, whispered that she should tell Meacham and the other whites not to come to the council tent again or they would get killed. Upon her arrival, she was very much distressed and showed signs of having been weeping. At first she would say nothing, refusing to speak until she met her husband, to whom she told what she had heard. He immediately beckoned Meacham and, with whitened lips, related the story of the intended assassination. The board was at once assembled and the warning thus given was repeated by Riddle, and also an account of what had taken place and the answer of Captain Jack to the message sent him. There was then some discussion about the reported intended assassination. General Canby had no faith in it. He said the Modocs "might talk such a thing; but they would not attempt it." Thomas was inclined to believe it was a sensational story, got up for effect. Meacham asserts that he and Dyer accepted the warning and believed it. The next day Bogus Charley, Boston Charley and Shacknasty Jim arrived with a proposal for another meeting at the council tent and said that Captain Jack and four others were there waiting. While Boston Charley was delivering his message, an

¹ Meacham, 450-453.

orderly handed Canby a dispatch from the signal station to the effect that there were five Indians at the council tent, apparently unarmed and about twenty others armed with rifles among the rocks a few rods behind them. This paper being handed around, all appear to have been convinced that treachery was intended; and Meacham, with the concurrence of the others, without however manifesting any distrust of the Indians, answered Boston that they were not ready to talk that day.

According to Meacham, Thomas, before the Modocs started off again, said to Bogus Charley, "What do you want to kill us for? We are your friends." Bogus at once exclaimed with great earnestness, "Who told you that?" Thomas evaded answering; but Bogus insisted and began to grow warm in his demand when Thomas replied, "Toby said so." Bogus turned to Toby and asked who told her; but not a word on the subject of who her informant was could be got from her. The three messengers then left; but from that moment Riddle and his wife felt very much alarmed for their personal safety. Not long afterwards a message came that Toby was wanted at the Modoc camp. She did not want to go; nor did Riddle want her to go. They consulted the commissioners and, according to Meacham, they all, except himself, thought there was great danger. Canby, when consulted, said that if Toby were assaulted he would move immediately upon the Modocs. On this assurance she consented to go; and Meacham loaned her his overcoat and gave her his horse to ride. She took an affectionate farewell of her little child, a boy of ten years old, clasping him repeatedly to her breast, and then, after a few words in a low tone of voice with her husband, rode off. Riddle, taking a station commanding a view of the Modoc camp, sat down with a field-glass in his hands and watched her. She was seen to arrive at the stronghold and the Modocs gathered around her. They demanded to know her authority for saying they intended to kill the commissioners. She denied she had said so; but they answered that they knew better and she knew better. She then said she had dreamed it; but this was not any more satisfactory than her first answer. She then said the spirits had told her. They replied that her statements were false and began to make threats of violence, saying that she must give the name of her informant or suffer the conse-

quences. Upon this, her Modoc blood flared up and, pointing to the camp of the whites, she exclaimed, "You see the soldiers there: touch me and they fire; and not a Modoc will escape." Smiting her breast, she exclaimed, "I am a Modoc woman; all my blood is Modoc; I did not dream it; the spirits did not tell me. One of your own men told me. I will not tell you who it was. Shoot me, if you dare!"

It was plain to the Modocs that nothing could induce Toby to betray her informant and equally plain that they could gain nothing by assaulting her: Besides Scar-faced Charley was her particular friend and would not under any circumstances consent to any harm being done her; and he was aided on this occasion in seeing her safely on her way back by Captain Jack. Upon her return she gave an account of everything that had been said and done; and again she repeated her warning against the commissioners again going to the council tent. But notwithstanding all she could say and all the indications of treachery on the part of the Modocs apparent on every side, Canby and Thomas persisted in further negotiations; and Meacham and Dyer, though they were, if Meacham is to be believed, perfectly aware of the treachery that was intended, weakly consented. It is possible that Meacham in his subsequent efforts to magnify his own sagacity—a common fault with weak men—represented his previous knowledge as much more extensive than it really was. If he knew all he has since pretended, it would seem that he was in a very great degree responsible for the tragedy that was impending, and that the repeated charges against him to that effect in the newspapers of the day were correct. As for Canby himself, it is certain that he had been wavering whether to negotiate further or force the Modocs to surrender. His soldiers in general denounced the peace commission and complained that the military was subjected to disgrace by being held in abeyance by it. But Canby was constrained, by too great a respect for ignorant philanthropists at Washington and in other parts of the country and seemingly against the counsels of his own better judgment, to still forbear and try further negotiation though convinced that treachery was intended.¹

¹ Ex. Doc. 43 Con. 1 Sess. H., No. 122, 71-75, 268-284; Meacham, 456-462.

Doctor Thomas, as a Christian minister, had great faith in the efficacy of prayer and spent many hours at it among the rocks. He appears to have believed that he could thus change the obdurate hearts of the savages as sincerely as the Curly-haired Doctor evidently imagined he could turn the bullets of the whites with his incantations. Canby, though recently advised by the war department at Washington that little or no confidence was felt in the peace commissioners and that he must substantially manage the business himself, nevertheless conceded to them the privilege of arranging not only the time but also the terms of meetings with the Modocs. Unfortunately, on April 10, 1873, during the absence of Meacham and Dyer, Thomas, who had been left in charge of the affairs of the commission, made an agreement with a new delegation from Captain Jack's stronghold, that the peace commissioners, accompanied by General Canby and by Colonel Albert C. Gillem, who had superseded Lieutenant-colonel Frank Wheaton, all unarmed, should meet five unarmed Indians at the council tent on the following morning at eleven o'clock; and to this agreement it appears that Canby was induced to assent. Meacham said that upon his return to head-quarters in the evening, he demurred to the arrangement, saying it was unsafe; but Thomas insisted that God had done a wonderful work in the Modoc camp and that they now wanted to make peace and were evidently willing to surrender. Meacham shocked the doctor by answering that "God has not been in the Modoc camp this winter; and if we go we will not return alive."¹

If Indian accounts as reported by Meacham are to be credited, Captain Jack as well as Scar-faced Charley and a few others opposed the assassination of the commissioners, which was resolved on by the anti-peace party. It was said that on the night before the fatal day, in a stormy council in the Modoc camp, Captain Jack declared that the murder should not be done, and that thereupon the blood-thirsty majority gathered round and, placing a woman's hat on his head and a woman's shawl around his shoulders, taunted him with cowardice, called him a white-faced squaw, charged him with violating his own law that the majority should rule, and said he was no longer a Modoc. And it was

¹Ex. Doc. 43 Con. 1 Sess. H., No. 122, 161; Meacham, 462-464.

added that, dashing the hat and shawl aside and springing to his feet, he shouted, "I am a Modoc. I am your chief. It shall be done, if it costs every drop of blood in my heart. But hear me, all my people. This day's work will cost the life of every Modoc brave. We will not live to see it ended." However this may have been, it is certain that when the assassination was resolved on, Captain Jack was as determined and blood-thirsty as any one else; and as chief he claimed the right to initiate the slaughter by killing General Canby and selected Ellen's man as his assistant. Schonchin John, being next in rank, chose to kill Meacham and selected Hooker Jim as his second. There was some contention as to who should kill Thomas, the "Sunday-doctor" as the Indians called him; but the privilege was gained by Bogus Charley and Boston Charley. Shacknasty Jim and Barncho were to kill Dyer and Black Jim and Sloluck Colonel Gillem. It was also arranged that the Curly-haired Doctor and Curly-haired Jack with others were at the same time to decoy Major Edwin C. Mason from his camp on the lake shore and kill him also. These preliminaries being arranged, Barncho and Sloluck were sent out with seven or eight rifles to secrete themselves near the council tent and have them forthcoming when needed.¹

¹ Meacham, 464-466.

CHAPTER XIV.

MODOC WAR (CONTINUED).

ON the morning of Good Friday, April 11, 1873, the day appointed for the fatal meeting, Boston Charley made his appearance at head-quarters—Bogus Charley had come the evening before and stayed all night. The object of both was, as far as possible, to prevent any unforeseen circumstance from frustrating their murderous designs. The manner in which these savages were received by the peace commissioners was indicated by the fact that when Thomas rose from his breakfast, Boston, "this imp of the devil" as Meacham called him, was apparently without objection allowed to sit down in his seat, eat from his plate and drink from his cup. While eating he observed Meacham changing his boots, pulling off a new twenty-dollar pair and putting on old ones, and with a "cunning twinkle of the demon's eyes" asked, "What for you take 'em off—new boots? Why for you no wear 'em—new boots?" After breakfast both Bogus and Boston were urgent and impatient for a start and, pointing to the council tent, said that Captain Jack and four men were there already and that they would get tired waiting. Riddle and his wife, who soon made their appearance, repeated their warning not once only but several times, and Toby particularly, with the most passionate vehemence, endeavored to prevent the proposed meeting and especially Meacham's attending it. Meacham said that he over and over again represented the danger; but Canby answered that he had been watching the council tent with a field-glass all morning; that there were not more than five men there; that he had given orders for the signal station to keep a strict watch, and that in case of an attack the army would move at once. Thomas expressed his determi-

nation to keep the compact and leave the result with God, but at the same time he said that he did not consider Riddle and his wife reliable. Meacham then insisted on going armed, and Dyer wished to do the same; but Canby and Thomas replied that the agreement was to go unarmed and that they were going as they had agreed. Canby thereupon went to his marquee and soon reappeared in full dress, while Thomas dressed himself in a suit of light gray Scotch tweed; and the two then called on Colonel Gillem, who was too ill to accompany them, preparatory to starting for the council tent. Meacham meanwhile wrote a note to his wife, stating that she might be a widow that night but not a coward's wife; that he was going to save his honor; that he had done all he could to prevent the meeting and was not to blame; that the chances were all against them, and that Fairchild would forward his valise and valuables and also six hundred and fifty dollars in currency, which he had given him for her. This note, with the money, he handed Fairchild and requested him to send them to his wife, if he did not get back. At the same time Dyer came up and, handing Fairchild another parcel, asked him to send it to Mrs. Dyer. At this Meacham inquired of Dyer why he went if he felt as he did, saying that he would not go if he were in his place; but that as for himself, being chairman of the commission, he was obliged to go or be disgraced. Dyer replied that if all the rest were going, he would not remain behind.¹

At the tent door stood Frank Riddle, Toby and their boy Jeff. Toby, who held Meacham's horse, was weeping. Meacham said, "Toby, give me my horse; we must go now." She answered, "Meacham, you no go; you get kill. You no get your horse. The Modocs mad now; they kill all you men." She then wound the horse's rope around her waist and threw herself on the ground and in wild excitement cried, "Meacham, you no go; you no go! You get kill; you get kill!" Upon this exhibition, Meacham called to Canby and Thomas, who stopped and awaited his approach. Laying a hand on the shoulder of each, he again informed them that in his cool, deliberate opinion, if they went to the council tent that day, they would all be carried back on stretchers, cut to pieces. Thereupon much the same conversa-

¹ Meacham, 466-470.

tion took place as before. Meacham again insisted on going armed and said if they would consent to his going armed and allow him to take along John Fairchild, who was a dead shot and could whip a dozen Indians, he would interpose no further objections to going. Thomas replied, "Brother Meacham, you and Fairchild are fighting men. We are going to make peace, not war. Let us go as we agreed and trust in God." "But, Doctor," rejoined Meacham, "God does not drop revolvers down just when and where you need them." "My dear brother," retorted Thomas, "you are getting to be very irreligious. Put your trust in God. Pray more and don't think so much about fighting." "Doctor," returned Meacham, "I am as much of a peace man as you are; and I am as good a friend as the Indians ever had on this coast; and I know in whom to put my trust in the hour of peril. But I know the Modocs. I know they won't keep their word; and I want to be ready for trouble when it comes. I don't want to go unarmed."¹

Meacham, finding himself thus opposed on the subject of going armed, then said that, as chairman of the commission and having to manage the talk, he would grant the Modocs any demand they might make rather than give them any excuse to make an attack, provided he found them armed as he knew they would be. Canby answered that he had had more or less connection with the Indian service for thirty years; that he had never made a promise that could not be carried out, and that he was not willing now to promise anything that it was not intended to perform. "Nor I," said Thomas, who wished the Indians to have confidence in white men. Meacham repeated that he only proposed doing so in case the Modocs broke the compact by being armed; that he did not believe in false promises either; but he would promise anything an Indian demanded before he would give him an excuse to take his life or theirs. He did not consider it dishonest, nor would his conscience ever condemn him for saving his life by such strategy. The general and the doctor both insisted on making no promise that was not in good faith and started again on their way for the peace tent. Meacham again begged them not to go, saying that he had too much to

¹ Meacham, 470, 473.

live for, too many dependent upon him; that he did not want to die; but that if they went, he would have to go to save his name from dishonor. Canby turned and said, "That squaw has got you scared, Meacham. I don't see why you should be so careful of your scalp. It is not much better than my own." "Yes," answered Meacham, "the squaw has got me scared; that's true. I am afraid and I have reason to be." And he thereupon returned to his tent; made arrangements for Fairchild to bury him if his body was brought back mutilated and reiterated that he had no choice except death or disgrace and that his name had never been and never should be dishonored. Fairchild, taking out his revolver, said, "Here, Meacham, take this; you can 'bore' brim-stone out of them with it" But Meacham declined and, so far as words went, absolutely refused to take a weapon for the reason that everybody would swear he had precipitated a fight by going armed in violation of the compact. But at the same time he allowed a third party, who understood him better than Fairchild, to slip a Derringer pistol into the side pocket of his coat; and, upon being assured in a whisper that it was sure fire, he did not hand it back. Dyer, seeing "the little maneuver," as Meacham called it, went to his own tent and slipped another Derringer into his own pocket. They then, after one more vain effort on the part of Toby to stop them, started for the peace tent—Meacham, Dyer and Toby on horseback and Riddle on foot.¹

At the council tent, on the side hidden from the signal station, there was a small sage-brush fire burning and around it on loose stones were seated, dressed like white men, Captain Jack in a well-worn gray coat and slouch hat, Schonchin John, Black Jim, Shacknasty Jim and Ellen's man. Hooker Jim, the best trailer and closest marksman among the Modocs, was walking restlessly back and forth. Some forty steps beyond, concealed behind a ledge of rocks, were two boys, Barncho and Sloluck, each lying on several rifles. Not far distant, also concealed by the rocks, was another man, holding a rifle, with the muzzle pointing towards the tent. It was Scar-faced Charley. He was not there to take part in the tragedy, except in one contingency: he intended to kill any one who should dare to harm Riddle or his wife.

¹ Meacham, 473-476.

Just before the arrival of Canby and Thomas, Bogus and Boston had come up to the fire and told the others that the whites were unarmed. When Canby and Thomas approached, the Indians rose and greeted them with apparent cordiality. Canby took from his pocket a handful of cigars, offering one to each; they were accepted and lighted and soon all were smoking. In a few minutes more Meacham, Dyer and Toby rode up and dismounted, and Riddle followed. Immediately upon reaching the ground, Meacham, Dyer, Riddle and Toby noticed various suspicious circumstances, and Dyer and Riddle as much as possible kept outside the group. Presently, after some preliminaries, Meacham sat down and opened the talk by saying that the commissioners had come out at the request of the Indians to conclude terms of peace. Captain Jack answered that the Modocs wanted no more war; but they wanted the soldiers taken away and then they would make peace. Meacham replied that General Canby was in charge of the soldiers; that he was a friend of the Indians; that the president had sent him out to look out for everybody and see that everything went right, and that he could not send away the soldiers without a letter from the president.¹

Meacham before dismounting had removed his overcoat, so as to easily get at his Derringer. After dismounting he had thrown his overcoat on his saddle and left the rope of his horse's halter hanging loose. But Hooker Jim, while the foregoing talk was going on, tied the horse to a sage-brush, so as to prevent his getting away; and then, seizing the overcoat and, with a few jerks pulling it on and buttoning it up, straightened himself, smote his breast with his hand and turning around exclaimed, "Me old man Meacham now. Bogus, you think me look like old man Meacham?" It was very evident from this that Hooker Jim was going to make sure of the horse and coat in advance; and it was equally plain that the whole party had been entrapped; but Meacham says he assumed an air of indifference and said, "Hooker Jim, you had better take my hat also," at the same time lifting it from his head. But Hooker Jim answered, "Snoker gam-bla sit-ka caitch-con-a bos-ti-na chock-i-la—I will, by and by. Don't hurry, old man." Dyer and Riddle, who understood

¹ Meacham, 476-485.

what was said, edged off towards the horses, while Toby threw herself at full length on the ground, resting upon her elbows. Canby seemed at last to understand the situation. He rose up, his face indicating great intensity of feeling, and with a slight quiver of his lips, turning to Toby, told her to say that the president had sent the soldiers to protect the Indians as well as the whites and that they could not be taken away without the president's consent. He went on to say that he had on several occasions been sent to move Indians from their old homes to new ones; that they had all liked him, and made him a chief amongst them, and that he expected the Modocs also to recognize him as their friend and like him. Thomas threw himself forward on his knees and told Toby to say that he believed in the great God and that He had sent them there to make peace.¹

Captain Jack suddenly rose and walked a few steps away. Schonchin John immediately took his place and demanded Hot creek for a home and that the soldiers should be taken away. Meacham replied that Hot creek belonged to Fairchild and Dorris; but he would see if he could get it for them. Schonchin exclaimed, "Take away your soldiers and give us Hot creek or quit talking. I am tired of talking. I talk no more." While the interpreter was translating these words, Captain Jack, stepping up behind Schonchin, gave a signal, upon which the Modocs uttered their war-whoop and Barncho and Sloluck were seen coming with their rifles. With the exception of Toby, who lay close to the ground, every one jumped up; and Meacham cried, "Jack, what does this mean?" Without replying to him, Captain Jack thrust his right hand under the left breast of his coat and, drawing a six-shooter, shouted, "Ot-we-kan-tux—All ready." Cocking the pistol and pointing it at Canby's head, he pulled the trigger and exploded the cap, but not the powder. Quickly revolving the cylinder, he again presented it to the head of the general, who stood like one petrified, and fired. Canby turned as if dazed and started as if to keep from falling, while Jack and Ellen's man pursued until he sank down. In falling his chin struck the rocks and his lower jaw was shattered. The murderers closed upon him and, while Jack held him down, Ellen's man cut

¹Meacham, 481, 485-490.

him across the neck. In a few moments they stripped him, while still struggling in the agonies of death, of every particle of clothing; and, when Barncho came up, Ellen's man snatched a rifle and sent another bullet crashing through his brain. They then turned him over on his face and, with his uniform in their arms, went back to the council tent.¹

At the same time that Captain Jack fired at Canby, Boston Charley also drew a pistol and fired at Thomas, striking him in the left breast above the heart. He dropped partly down and extending his hand towards the assassin begged him not to shoot again. Bogus then joined Boston. They permitted their victim to get upon his feet, when they tripped him and he fell. They asked, "Why don't you turn the bullets? Your medicine is not strong." Again their victim rose and walked a few steps, when they again pushed him down. He pleaded with them to spare his life; but they laughed and cried, "Next time you believe a squaw, won't you?" Once more the doctor rose and walked a few steps, when he fell to rise no more. Sloluck approached and Bogus, taking a rifle from him, shot the doctor through the head. It was said that he died with a prayer on his lips. His murderers then stripped him and, turning him face downward, went off with his clothing, mocking his words of prayer. Meanwhile Dyer and Riddle at the first fire started to run, Dyer towards the camp and Riddle towards the lake. Hooker Jim jumped after Dyer and fired several times, when Dyer turned and pointed his Derringer, upon which Hooker dropped behind the rocks. Dyer then resumed his race and widened the space between them so materially that Hooker gave up the chase and returned to the tent. On the other side Black Jim started after Riddle and fired several times, but apparently without any great desire to hit him—at any rate he did not hit him. And as Riddle easily escaped and no attempt was made to touch Toby, Scar-faced Charley, who was watching with his rifle, had no occasion to use it.²

The attack on Meacham was made, in accordance with pre-arrangement, by Schonchin John. But Schonchin was so much

¹ Meacham, 491, 492.

² Meacham, 492-496.

excited that he drew his revolver with his left hand and with his right unsheathed a knife. Before he could cock his pistol, Meacham drew his Derringer and, pushing the muzzle up squarely in front of Schonchin's breast, pulled at the trigger. He pulled a second time; but the Derringer would not go off, and he then found he had only half cocked it. By that time Schonchin had his revolver cocked and, thrusting it towards Meacham's face, fired. As the latter jumped back, Schonchin's ball passed through the collar of his coat, vest and shirt and grazed his neck. As he ran backward with his Derringer in his hand, Schonchin pursued, firing until his revolver was empty and then dropping it and drawing another, he continued the attack but dared not close on the Derringer in Meacham's hand. Toby Riddle in the meanwhile had jumped up and endeavored to save Meacham by preventing Schonchin from firing. Thereupon Sloluck advanced with a rifle and struck Toby. At this Shacknasty Jim snatched the rifle and aimed it at Meacham, when Toby struck it down. Shacknasty again took aim and fired, just as Meacham leaped over a low ledge of rocks and fell. Shacknasty supposed he had struck; but he was mistaken. Meacham immediately rose and, pushing his Derringer on the top of the ledge, carefully raised his head; but just as he was about to fire his only shot, Schonchin, who was sitting with his revolver resting on his knee, got the start again. His bullet this time struck Meacham in the forehead between the eyes; but, instead of penetrating the skull, it passed only under the brow and out over the left eye. Almost simultaneously Meacham fired and Schonchin leaped up and fell on the rocks; but, as a matter of fact, Meacham was even a worse shot than Schonchin and did not do as much execution. About the same time another ball passed through Meacham's arm; a third cut away the upper part of his right ear, and a fourth struck him on the right side of the head and glanced off. This stunned him and he fell as if dead.¹

Shacknasty Jim, upon seeing Meacham fall, ran up and began stripping him. As he was doing so, Sloluck approached with a rifle and was about to shoot him in the head, when Shacknasty

¹ Meacham, 496, 497.

pushed him away and said it was useless—the man was dead. Just then, hearing Captain Jack calling, they left Meacham and, turning to Toby, cried, "There lies another of your brothers, you white-hearted squaw. Go and take care of him. You are no Modoc." Captain Jack had ordered all his savages to flee to their stronghold. But Boston Charley, suddenly bethinking himself, said, "I am going to have old man Meacham's scalp to put on my shot-pouch." At this Hooker Jim remarked, "He has no scalp or I would have taken it myself." Boston, however, ran to Meacham and shoving aside Toby, who was wiping the blood from the mutilated face, grasped the largest lock on one side and thrust in under the skin the blade of a small pocket knife taken from a soldier killed two years before. Toby, immediately recovering, seized the cut-throat and with a tremendous effort hurled him back on the rocks. Boston soon rose and, threatening to kill her if she again interfered, placed his foot on Meacham's neck and again thrusting in his knife cut a long semi-circular gash from the temple around towards the back, swearing because there was no better scalp but saying that he would take one ear with it. On the instant Toby, resorting to strategy, jumped up, slapping her hands, and exclaimed, "Bostee-na soldiers. Kot-pumbla!—The soldiers are coming!" whereupon Boston, without further cutting of Meacham's head or looking back, started to join the other Modocs. They by this time had placed Schonchin John, who was slightly wounded, on Meacham's horse and lashed the blood-stained uniform of Canby and the suits of Thomas and Meacham on Dyer's horse, and moved off with them as rapidly as possible towards the Modoc stronghold. Boston, as he passed by, seized the rein of Toby's horse; but she shouted to Captain Jack, and he, turning around, ordered Boston to drop it. Toby again wiped the blood from Meacham's face and, supposing him dead, took her horse by the bridle and sorrowfully walked towards head-quarters.¹

While this scene was being enacted at the council tent, the Curly-haired Doctor, Curly-haired Jack and a few other Modocs approached Major Mason's camp with a white flag. Lieutenants W. H. Boyle and Walter L. Sherwood went out beyond the

¹ Meacham, 497-500.

picket line to meet it and asked what was wanted. The Indians answered they wanted to see the Little Tyee, as they called Major Mason. Boyle replied that he would not come; but, as he did so, he caught sight of a gun behind the flag and, turning on his heel and flying, he called out to Sherwood to run for his life. As he did so, however, Curly-haired Jack fired and his ball broke Sherwood's thigh, inflicting a mortal wound, of which he died three days afterwards. Meanwhile, as soon as the firing commenced, the troops at head-quarters sprang to their arms and advanced as rapidly as possible to the council tent; but the Indians had fled and were by that time concealed among the rocks and caves of their stronghold. There, after some bitter invectives against Hooker Jim for allowing Dyer to escape and against Curly-haired Doctor for not decoying and killing Major Mason, there was a division of the clothing—Captain Jack receiving the uniform of Canby, Bogus and Boston dividing that of Thomas, and Schonchin, Hooker Jim and Schacknasty Jim parting among them that of Meacham. They then began to prepare for defense; and, in the expectation of a speedy attack, they hushed their quarrels and pledged one another to fight until the last man was dead. And in the evening the Curly-haired Doctor called them all around him and began the great medicine dance; and all night long the sound of drum and song was heard in the Modoc camp. All night long also an attack by the soldiers was expected; but hour after hour passed and no signal from the sentinels. Morning came at length and still no soldiers; and the Modocs, with the exception perhaps of Captain Jack and Scar-faced Charley, exulted in the belief that they had scared the government and that it would now grant them all they asked.¹

Though the whites by this time amounted to about a thousand men, all they did for several days was the removal of the bodies of General Canby and Doctor Thomas, which were sent, the first to Portland and thence by way of San Francisco to Indianapolis and the other to San Francisco, for burial. They also removed Meacham on a stretcher; and, as they did so he had an opportunity of exhibiting his character as a temperance

¹ Meacham, 501, 509, 510; Ex. Doc. 43 Con. 1 Sess. H., No. 122, 82.

advocate, of which he afterwards appeared to be very proud. When found and pronounced not dead, he insisted several times that he was dead. When placed on the stretcher, he moaned for water, water. The surgeon put a canteen of brandy to his lips; but, turning away, he exclaimed, "I can't drink brandy. I am a temperance man." The surgeon, however, soon poured the brandy down and told him that was no time for temperance talk. He was then carried to head-quarters, where his wounds were treated, and a couple of weeks afterwards was removed to his residence at Salem, Oregon. In a few months he was out again, but very much scarred. Meanwhile for several days, Colonel Gillem with his thousand men remained comparatively inactive. He is said to have given as a reason that he was waiting for the Warm Spring Indians to join him; but it is more probable that he was, perhaps judiciously, waiting for orders from his superiors. They came in a few days. On April 12, General John M. Schofield, who was in command of the division of the Pacific at San Francisco, telegraphed to Gillem to let the punishment of the Modocs be severe: he hoped soon to hear that he had made an end of them. On April 13, General William T. Sherman at the head, under the president, of the army of the United States at Washington telegraphed that the president now sanctioned the most severe punishment of the Modocs, and he hoped to hear they had met the doom so richly earned by their insolence and perfidy.¹

On April 14 Colonel Gillem determined on an advance. His plan was to surround the Modocs, so as to prevent their escape, and then close in on them with mountain howitzers and shell them out with Coehorn mortars. On the morning of April 15, after a great number of shells had been thrown, the howitzer battery opened on the stronghold and the troops advanced nearer. But the Modocs were not idle and the result was three whites killed and nine wounded. The next day the lines advanced again a short distance and the fight was kept up by the Modocs, who disputed every inch and laughed at the shells, which they avoided by getting behind rocks. But an advantage

¹ Meacham, 503, 504, 511, 537, 549, 563, 664; Ex. Doc. 43 Con. 1 Sess. H., No. 122, 76, 77.

was gained by the whites: they joined lines on the Lake side and prevented the Modocs from reaching water. On the morning of April 17, they cautiously advanced again towards the stronghold, throwing in a few shells, and soon found it deserted. A few straggling Indians, evidently nothing but a rear guard, remained, who on the advance of the whites sullenly retreated towards the south. It seemed likely that the main body had taken the same direction; but their escape had been so skillfully conducted that they had gotten entirely away and no one could tell where they were. On April 18, all the cavalry and the Warm Spring Indians were sent to the south of the lava beds to ascertain whither they had gone; and in the meanwhile, awaiting their report, the army rested on its honors. Its loss, in the four days of shot and shell, was sixteen killed and thirteen wounded. The loss of the Modocs seems to have been two, but not in the usual way. According to Meacham, who doubtless derived his information from the Modocs themselves, they had picked up a shell that had not exploded and were very anxious to see what was inside of it. Several plans to open it were tried unsuccessfully, when one of the braves, with jaws like a cougar, taking it in his hands and raising it up seized the plug with his teeth to pull it out. As he did so, the shell went off and the brave's head went off with it, as well as the head of a companion who was curiously inspecting the operation. Meacham added that that shell, rating its services pro rata with the total cost of the Modoc war, was worth to the government five hundred thousand dollars.¹

On April 26, Captain Evan Thomas, at the order of Major John Green acting under authority of Colonel Gillem, with about seventy soldiers and fourteen Warm Spring Indians, was ordered to make a reconnaissance for about four miles in a southeasterly direction from head-quarters. They started about seven o'clock in the morning and reached the designated point about noon, where they rested in apparent security. But suddenly the Modocs, not one of whom had been seen, commenced firing on them, when the larger portion of the command became panic-stricken and scattered. Only the officers and a few of the men

¹ Ex. Doc. 43 Con. 1 Sess. H., No. 122, 80, 81; Meacham, 536.

stood to their arms and fought. Thirteen were killed, including Thomas and several other officers, and sixteen wounded. The loss of the Indians was said to be four killed. It was found that they occupied a position in the lava beds about four miles south of their old caves. In the meanwhile, on April 14, 1873, at Washington, Colonel Jefferson C. Davis, then at Indianapolis, Indiana, had been appointed to the command of the department of the Columbia in place of Canby and directed to proceed at once to his post. He arrived at the lava beds on May 2 and, upon investigation of the last disaster, pronounced it the result of conspicuous cowardice on the part of the men who ran away, saying that they were utterly unfit for Indian fighting and nothing but pusillanimous beef-eaters. He felt so indignant that he desired to keep them there and make them fight and stated that he should take such steps as he thought would insure the necessary training. He at once took hold and commenced reorganizing the demoralized rabble; and in a few days, finding that the Indians had disappeared, sent several companies to prevent their escape. His orders were to give them no rest day or night and never to lose sight of them. The Modocs on one occasion turned and fought; but they found that there was a different spirit among the whites and that they were so completely hemmed in on all sides by determined men that it was impossible to get away, without separating. This for various reasons they appear to have been ready to do. The exactions of Captain Jack, to keep them up to their work, were so great that they became insubordinate. Besides in the last fight, Ellen's man George had been killed; and his death was the signal of new quarrels, based upon the charge that Captain Jack had a grudge against him and purposely placed him in a post of extreme peril. However this may have been, there were two parties and they separated. The larger part of them, apparently under Hooker Jim, Shacknasty Jim, Bogus Charley and Steamboat Frank, set off in a westerly direction and were followed by a company of cavalry, which after a hard march of fifty miles came up and had a running fight with them of seven or eight miles. On May 22, finding that the game was up, they surrendered unconditionally,

about seventy-five in number, including the old men, women and children.¹

Captain Jack and his now very small party of adherents had taken a direction either southward towards Pit river or eastward towards Goose Lake. He was supposed to be by that time one hundred miles distant and probably murdering settlers and destroying property. It was exceedingly important to head him off, and as quickly as possible. Under the circumstances Davis was constrained to accept the proffered services of Hooker Jim and three or four others of the Modoc prisoners to capture him. Though he knew and openly admitted that Hooker Jim was an unmitigated cut-throat, and was loath by any employment to compromise his well-earned claims to the halter, he still thought it best to employ him on account of his known abilities as a trailer and because it was believed he could be relied on as a traitor to his late leader, all of whose plans he knew. No promises were made to him; but he doubtless understood that activity and success would go far to redeem his forfeited life. Taking three of the Modocs, all well armed, he set out eastward, while Davis marched to Applegate's ranch on the east side of Clear Lake to await developments. Hooker Jim, after a couple of days of hunting, found Captain Jack and his party on Willow creek, one of the head-waters of Lost river, fifteen miles from Applegate's ranch, which place he had designed to attack that night. He was completely surprised and denounced the traitors. He then fled in the direction of Langell valley; but the whites, as soon as Davis could advance them, were on his track; and the pursuit now became more like a chase after wild beasts than war. It lasted from May 28, the day Hooker Jim found the party, till June 1. On May 31, Scar-faced Charley, the most respected of the whole lot, surrendered. Next came Schonchin John and ten or eleven others. They were all sent to Davis' camp. Captain Jack and a few others still held out. The next day his hiding-place was discovered. Being called to come forth, he stepped boldly out on a shelf of rock, with his rifle in his hand. He asked whether Fairchild was there and, learning that he was

¹ Ex. Doc. 43 Con. 1 Sess. H., No. 122, 78, 82-84, 108-110; Meacham, 576-578.

near, he gave up his gun and surrendered. There were two others with him and four squaws with their children. Captain Jack himself had two squaws and a bright little girl child six years old. Upon surrendering he walked up to the Warm Spring Indians, who were present, and shook hands with them. He then called up the squaws and children and, mounting them respectively behind Warm Spring Indians and getting up behind one himself, he started for Davis' camp on Clear Lake ten miles distant.¹

Colonel Davis, in his camp on Clear Lake, soon after Captain Jack was brought in, ordered him and Schonchin John to be chained together with iron shackles. Towards evening they were led, under guard, to the blacksmith. Captain Jack at first showed some apprehension; but, upon Fairchild telling him to go on quietly, he did so without further hesitation. Scar-faced Charley, who spoke English, was told to explain that they were to be shackled to prevent escape. They protested that they had surrendered in good faith and would make no attempt to escape; but, when they saw there was no other way, they submitted in silence, while the shackles were closed around their ankles and securely riveted on. Davis then ordered that the camp should be moved and the prisoners conducted to what was known as Boyle's camp on the south side of Rhett Lake. Among others who started for that place was James Fairchild, driving a wagon drawn by four mules and containing fifteen or sixteen Modoc captives, men, women and children, all entirely unarmed. Accompanying the wagon were John Fairchild, Shacknasty Jim and Bogus Charley on horseback. When near the crossing of Lost river those on horseback took a shorter route, while James Fairchild with the wagon followed the road, and thus they separated. Soon after the crossing was passed, two Oregonians approached and ordered Fairchild to stop at the same time swearing that they were going to kill the Indians. One of them presented a pistol to Fairchild's head, while the other cut the mules loose from the wagon. Fairchild leaped to the ground, still clinging to the lines so as to prevent the mules from running away. The Oregonians thereupon commenced firing and soon

¹ Ex. Doc. 43 Con. 1 Sess. H., No. 122, 110, 111; Meacham, 586-588.

shot "Little John," "Te-he Jack," "Posey," "Mooch" and Little John's squaw, who fell writhing in their death agony among the others in the wagon. Their blood spurted in every direction and dropped down through the wagon bed and formed in pools on the ground. Meanwhile a dust was seen rising on the road as if a party were approaching, whereupon the cowardly white cut-throats decamped, leaving Fairchild to quiet his animals and the uninjured Modoc women to extricate themselves from the dead bodies, which had fallen on them. No efforts were made to arrest the murderers.¹

At Boyle's camp on the south side of Rhett Lake, it was Davis' intention without further delay, thinking himself justified by the spirit of his orders, to summarily execute Captain Jack, Schonchin John and six or eight others of the Modocs and, for that purpose, had a rough scaffold erected; but before he could do so he received orders from Washington to hold them under guard for further directions. About the same time Captain Jack and Schonchin John were taken before a photographic camera; and, when the operator lifted his black cloth and exposed the lens, Captain Jack, seeing it pointing to him, supposed it was "a big gun;" but to his surprise it was covered up again without shooting. Schonchin came next. Both had expected to die; but they smiled as they were led away. Meanwhile Davis had invited the settlers of the Lost river country to come in and identify the murderers and stolen property captured. Among them were Mrs. Boddy and her daughter Mrs. Shearon. They recognized Hooker Jim and Steamboat Frank and, almost immediately upon doing so, Mrs. Boddy, drawing a knife, made a plunge with it at Hooker Jim's breast while Mrs. Shearon, drawing a pistol, attempted to shoot Steamboat Frank. But Davis, jumping forward, disarmed both, receiving a slight wound in the hand from Mrs. Boddy's knife. Soon afterwards, in accordance with further orders from head-quarters, all the Modocs were removed to Fort Klamath in Oregon, except Curly-haired Jack, the murderer of Lieutenant Sherwood, who on the way, near the crossing of Lost river, committed suicide by shooting himself through the head.²

¹ Meacham, 591-595.

² Meacham, 580, 597, 600, 604.

On July 5, 1873, in further accordance with orders from Washington, a court-martial assembled in one of the buildings of Fort Klamath, at the head of which sat Lieutenant-colonel Washington L. Elliott. Major H. P. Curtis acted as judge-advocate. At his direction Captain Jack, Schonchin John, Black Jim, Boston Charley, Barncho and Sloluck were put on trial before it for the murder of Canby and Thomas and the attempted murder of Meacham and Dyer. The trial lasted four days. Riddle, Toby, Dyer, Shacknasty Jim, Steamboat Frank, Bogus Charley, Hooker Jim, William or Whin the man that cautioned Toby, Meacham, Lieutenant H. R. Anderson and Surgeon Henry C. McEldery were sworn and testified for the prosecution. For the defense Scar-faced Charley, Dave and One-eyed Mose testified and Captain Jack and Schonchin John made statements, endeavoring to show that they had been driven into what they had done by others and particularly by Captain Jackson among the whites and Hooker Jim among the Indians. When Meacham made his appearance and saw that the accused had no counsel and was told that they had been unable to obtain any, he proposed to himself appear as their counsel; and the court urged him to do so; but he finally declined. After all the testimony was in, the judge-advocate made a few remarks, not in reference to the charges against the prisoners, but in defense of Captain Jackson, who had been accused by Captain Jack of cruelty and barbarity in the attack upon his camp on Lost river and thus starting the war in November, 1872. The court then adjourned and soon afterwards returned its findings, pronouncing all the prisoners guilty on all the charges and sentencing them to be hanged.¹

The findings and sentences were on July 29 approved and confirmed by Colonel Davis and on August 22 by President Grant and ordered to be carried into execution on October 3, 1873. Not long afterwards representations were made to the president by Curtis and others that the boys, Barncho and Sloluck, were scarcely responsible beings, and on September 10 Grant issued an order commuting their sentence of death by hanging to imprisonment for life at Alcatraz Island in San

¹Ex. Doc. 43 Con. 1 Sess. H., No. 122, 133-203; Meacham, 608-635.

Francisco bay. On October 2, 1873, a long scaffold was erected on a meadow not far from the fort and in view of the guard-house where the prisoners were confined. On its cross beam were fastened six ropes. About the same time and not far from the guard-house six graves were dug. While these were being prepared, Colonel Frank Wheaton, who was in command at the fort, with a Catholic priest and Oliver Applegate and Dave Hill as interpreters, visited the doomed men to inform them of their sentence. They listened attentively. Captain Jack answered that he had heard the sentence and knew what it meant; that he had been in favor of peace but had been forced into war; that Hooker Jim, Bogus Charley, Shacknasty Jim and Steamboat Frank were free and triumphed over him and over the government, and that when he surrendered he supposed he was going to be pardoned and allowed to live at Klamath. When Wheaton asked him what member of the tribe he wished to take charge of his people, he evinced emotion and answered that he could think of no one, not even Scar-faced Charley, and asked if there was no hope of pardon. When assured that there was no hope, he asked if both sides of the case had been laid before the president. When Captain Jack was done, Barncho and Sloluck denied doing any part of the killing. Black Jim, the next speaker, said that he was anxious to live so as to take care of the tribe, adding that he did not know what Captain Jack and Schonchin John would think of it. Jack shook his head and Jim then said he was not afraid to die, he was afraid of nothing. Boston Charley was the only one that openly avowed what he had done. He said that in years he was a boy but he felt like a man; that when he looked around him on each side he thought he saw only women; that he believed he was the only man there—the only one altogether a man and not half a woman. He then acknowledged that he had killed Doctor Thomas. Schonchin John was the last to speak. He thought it a hard thing to have to die for what he had done; but he was ready and he wanted all to see that he was firm and resolute. "War," he said, "is a terrible thing. All must suffer—the best horses, the best cattle and the best men. I can now only say, Let Schonchin die!"¹

¹Ex. Doc. 43 Con. 1 Sess. II., No. 122, 183, 202, 203; Meacham, 637~643.

On the morning of October 3, 1873, a wagon drawn by four horses and containing four coffins drew up in front of the guard-house. The six sentenced men were brought out and seated on the coffins, Captain Jack, Schonchin John and Black Jim each on one, and Boston Charley, Barncho and Sloluck on the fourth. A company of soldiers formed around it. At the word of command they all moved out a couple of hundred yards, past a square stockade resembling a corral for cattle where their families were confined, to the scaffold. Before their arrival there the blacksmith, who had previously riveted the shackles on the ankles of the prisoners, cut them loose; and, while Barncho and Sloluck were left in the wagon, Captain Jack, Schonchin John, Black Jim and Boston Charley were made to ascend the scaffold and stand on the drop under four of the ropes. The nooses were soon adjusted around their necks. An adjutant stepped forward and read the sentences. The priest offered a prayer; and, as Dave Hill finished the translation in the Modoc tongue, an axe in the hands of a soldier severed the rope that held up the trap and the four men were launched into eternity. After they had hung some time, the bodies were taken down, placed in the coffins in the wagon, carried back to the open graves and buried.

At the time of the execution the sheriff of Jackson county, Oregon, made his appearance with indictments for murder and writs of arrest for Hooker Jim, Curly-haired Doctor, Steamboat Frank and other Modocs on account of the killing of Boddy and others in November, 1872, and demanding their surrender. They were not given up. On the next day L. F. Grover, governor of Oregon, telegraphed to Davis asking him to communicate the proceedings to Washington. The request was complied with. There can be very little doubt, if the Oregonians had ever got hold of any of the Modocs, whether guilty or innocent, what the result would have been. President Grant seems to have understood the situation. A reply was received to the effect that Grover's telegram to Davis had been shown to the president and his cabinet; that it was understood that the orders, previously given on September 13 to send all the unsentenced Modocs as prisoners of war to a fort in Nebraska, would be executed

by General Schofield, and that no further instructions were necessary. Apparently none were. In a very short time, after Barncho and Sloluck were sent off to be imprisoned for life on Alcatraz Island, the others, consisting of thirty-nine men, fifty-four women and sixty children, were forwarded to Nebraska and thence to the Quaw-Paw Agency in the Indian Territory, which was designated as their final home. And thus at immense cost, amounting to millions, and with great loss of almost every kind, closed the Modoc war.¹

¹ Meacham, 656-659.

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